



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

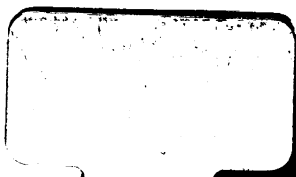
Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



*Stanford
Law Library*



Given by
Title Insurance
and
Trust Company
Foundation



DJ
ACM
KG.
J

STANFORD LAW LIBRARY

THE
GAME LAWS,
FROM
KING HENRY III.

TO THE
PRESENT PERIOD;
INCLUDING
ALL THE ACTS OF PARLIAMENT

Which are now in Force on that Subject,

WITH
OBSERVATIONS ON THEM,
Tending to convey real Information to
The *Lawyer*, the *Magistrate*, and the *Sportsman*.

AND
AN INTRODUCTION,

Explaining the General Nature of

FORESTS, PURLIEUS, CHASES, PARKS, LEECH
WARRENS, FISHERIES, PROPERTY IN
ANIMALS, &c. &c.

By GEORGE CLARK, Esq.

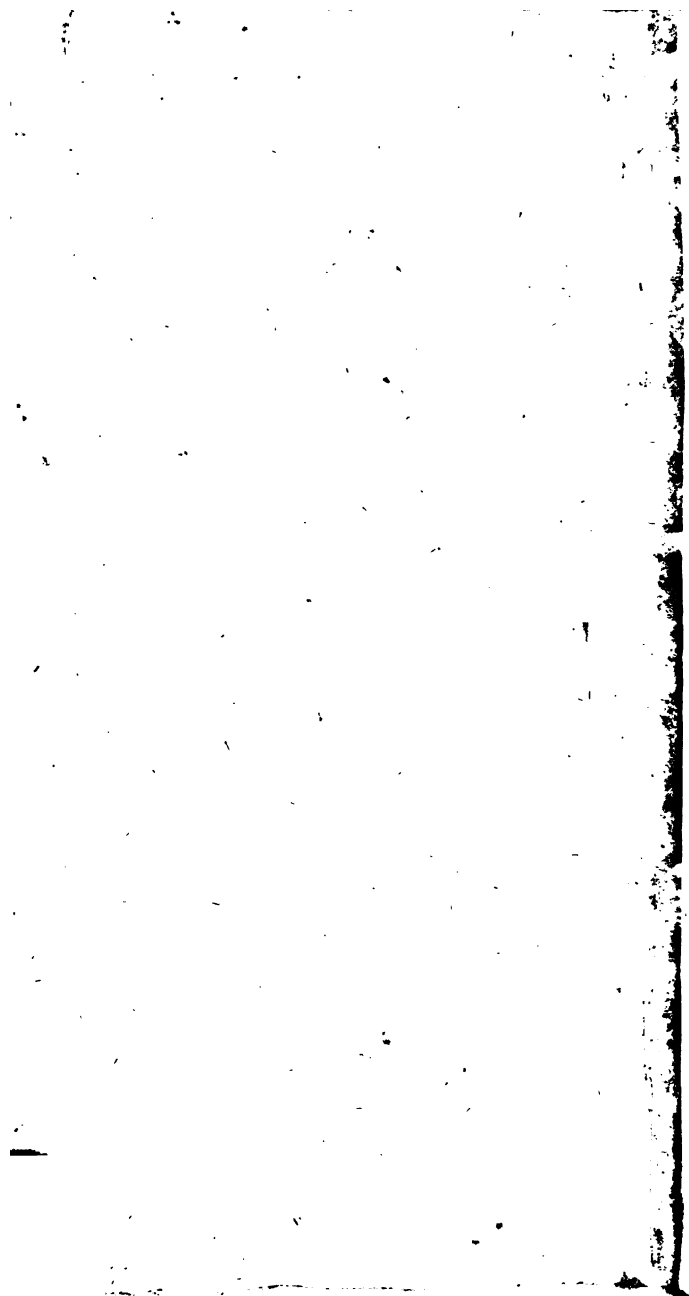
Author of the Penal Statutes abridged, &c. &c.

LONDON:

PRINTED FOR J. FIELDING, NO. 23, PATERNOSTER ROW; AND SOLD BY W. CLARK,
GUN-MARKET, NO. 133, HOLBORN.

MDCCLXXXVI.

[Entered at Stationers Hall.]

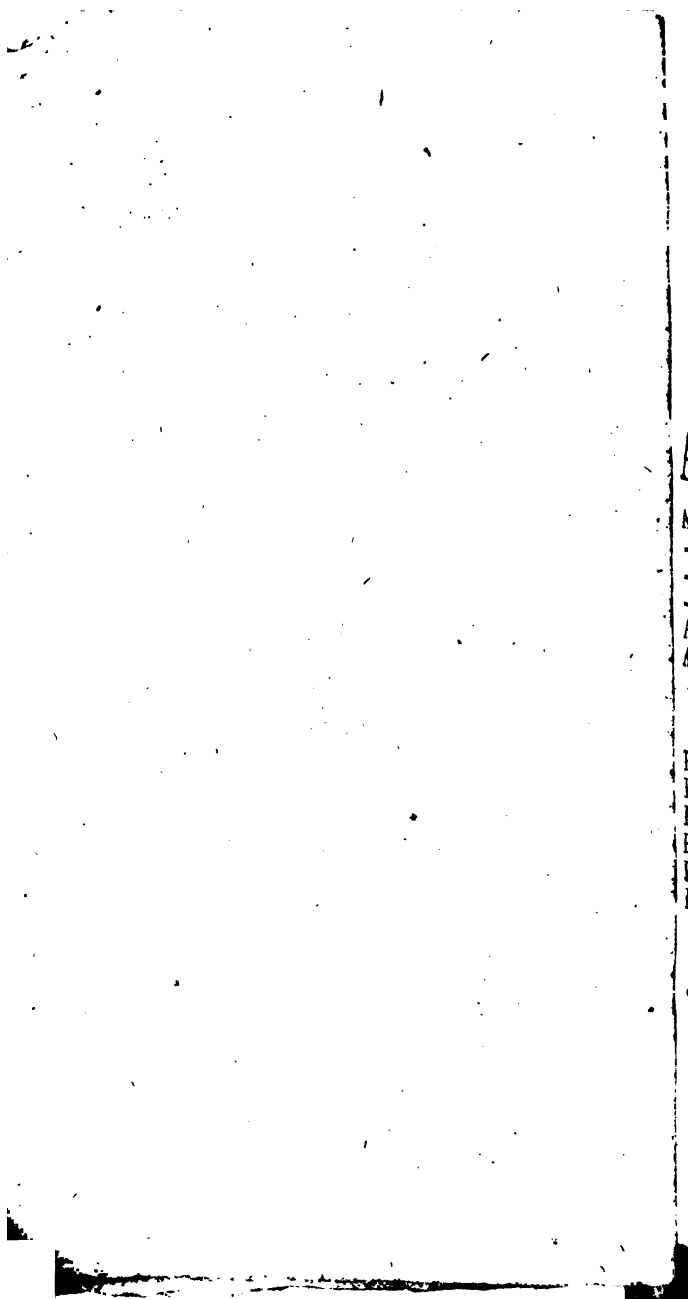




TO HIS ROYAL HIGHNESS
G E O R G E
PRINCE OF WALES,
THIS COLLECTION OF THE
G A M E L A W S,
IS MOST HUMBLY INSCRIBED, BY
HIS ROYAL HIGHNESS'S
MOST OBEDIENT,
AND MOST DEVOTED,
HUMBLE SERVANT,

BAINTFORD,
Nov. 23, 1785.

Geo Clark



[v]

I N D E X.

A.

- A**CTIONS on the game laws, p. 141.
 Alehouse-keepers having game in
 their possession, p. 102.
 Animals, property in, p. 12, 13.
 ——— tame, p. 13.
 ——— wild, p. *ibid.*
 ——— right to pursue, p. 14.
 Arms.—Persons armed, p. 143.
 Ashes of fern, p. 108.

B.

- Beating for game, p. 291.
 Billingsgate market, p. 88, 117, 186
 Birds, property in, p. 13.
 Black act, p. 142.
 Brakes, burning of, p. 107.
 Buying game, p. 104, 110, 164, 299, 300.

C.

- Carrier having game in possession, p. 102.
 Certificates for killing game, p. 242.
 ——— penalty for destroying without,
 p. 247.
 ——— refusing to produce, p. 250.

b

Certifi-

- Certificates counterfeiting, p. 252.
- Chapmen having game in possession, p. 102.
- Chases, what, p. 6.
- beasts of, p. 7.
- Christmas-day, killing game on, p. 217.
- Cod, duty of, p. 94.
- Commitments, p. 305.
- Concealing offences by the black act, p. 148.
- Constable may search for game, p. 271, 31.
- Convictions, p. 293, 304.
- Cook, having game, p. 164.
- Corn, standing hunting in, 47, 60.
- Cross-bow, laws relating to, p. 32.

D.

- Deer, laws relating to, p. 21, 139, 144, 152, 220.
- laws relating thereto repealed, p. 241.
- Discovery of offenders, p. 104.
- Disguise—Persons disguised, p. 25, 143.
- Distress—Goods distrained cannot be replevied, p. 298.
- Dogs, property in, p. 13.
- stealing, p. 13, 208.
- Ducks.—See wild fowl.

E.

- Eggs—See hawks, wild fowl, partridges, pheasants.
- Engines for deer, p. 225.
- Esquires, what, p. 282.

F.

F.

Fern, &c. burning, p. 88, 107, 165.

Fish, what sizeable and what not, p. 40, 41,
127, 180.

— ponds, laws against destroying dams
or heads of, &c. p. 44, 144.

— fry and spawn of, p. 39, 116, 125,
131.

• — sea, laws relating to, p. 40, 53, 168,
175, 186.

— relating to the importation of, p. 66,
68, 123, 156.

— stealing of, p. 73, 143, 202.

— seizing fishing nets, &c. p. 85.

— at Billingsgate, p. 88, 117.

— buying large quantities, p. 92.

— caught by foreigners, p. 95, 123, &c.

— using for hogs food, p. 117.

— regrators of, p. 117.

— times for buying fish at Billings-
gate, p. 119.

— breaking bulk, p. 167, 168.

— carts, p. 186.

— selling again in the same mar-
ket, p. 192.

Fisheries free, p. 10.

— several, *ibid.*

— common of, *ibid.*

— Thames, p. 113.

Fishmongers having game, p. 164.

— contracting with fishermen, p. 133.

Forests, what, p. 2.

— ancient laws relating to, p. 3.

Forests, beasts of, p. 4.

—— laws, relating to, p. 15, 22, 23, 24,
32.

—— courts not now in use, p. 64, 65.

Fry of fish—See spawn.

Furze burning, p. 88, 168.

G.

Game, the word defined, p. 1.

—— what is game, *ibid.*

—— laws, observations on, p. 12.

—— right to pursue, p. 14.

—— selling or buying to sell, p. 51, 110,
299, 300.

—— in Scotland, p. 158.

—— killing in the night, on Sunday, or
Christmas-day, 217.

—— at what seasons it may be destroyed,
p. 199.

—— taking it up, when killed by a person
qualified, p. 300.

Gamekeepers, lords of manors may appoint,
p. 69, 106.

—— but one to be appointed with power to
kill game, p. 110.

—— to be entered with the clerk of the
peace, *ibid.*

—— to be a servant of the lord's, p. 137,
261.

—— but need not be a menial one, p. 261.

—— how appointed, p. 260.

—— must take out a certificate, p. 243.

Game.

- Gamekeepers, their qualifications, p. 259.
 — their power, p. 69, 262.
 — their indemnity, p. 271.
 — two sorts of gamekeepers, p. 264.
 — only one in a manor to kill, p. 265.
 — must kill game for the Lord's use only, p. 266.
 — whether he need shew his authority, p. 268.
 — should use their power prudently, p. 270.
 Geese.—See Wild fowl.
 Gofs, heath, &c. burning, p. 88, 165.
 Greyhounds keeping or using, p. 105.
 Grig, heath, &c. burning, p. 88, 165.
 — uns, statute of, p. 32.
 — may be kept, p. 288, 289.

H.

- Hays, keeping or using, p. 105.
 Hares, trating in the snow, p. 29, 49.
 Hawks and hawking, laws relating to, p. 24, 27, 45, 52.
 — at what time to hawk, p. 61.
 Heath, burning, p. 88.
 Herons, laws relating to, p. 28.
 Higgler's having game in possession, p. 102.
 Hog's food, using fish for, p. 116.
 Hunting by a purlieu man, p. 5.
 — right to, p. 14.
 — with painted faces, p. 25, 142.
 — in standing corn, p. 47, 60.

I.

Impressed, who may not be, p. 193.
 Innkeeper having game in possession, p. 102.
 Inspectors of fishing vessels, p. 170.

K.

Keepers, see rangers and gamekeepers.
 Keeping dogs, engines, &c. p. 83.
 ——— nets, angles, &c. p. 84.

L.

Limitation of actions, p. 141, 151, 160.
 Ling fish, duty of, p. 94.
 Ling, heath, &c. penalty for burning, p. 88,
 107.
 Lobsters, what size, p. 93.
 ——— how to be imported, p. 128, 129,
 169, 180.
 Lurchers, keeping or using, p. 105.

M.

Moor or hill game, p. 212.
 Mutiny act, p. 162.

N.

Nets for fishing—what sorts shall be used
 and what not, p. 41, 145, 146.
 ——— for deer, p. 225.
 Night, destroying game in, p. 111, 213.

O.

Oysters, p. 116.

P.

Pales of parks, &c. pulling down, p. 226.

Park, what, p. 7.

—— origin of, p. 8.

—— beasts of, ib.

—— laws, relating to, p. 18, 20.

Partridges, laws relating to, p. 26, 47, 60.

—— killing in the night, p. 47.

—— Eggs, p. 50.

Pastry cook having game, p. 164.

Penalty taken from the poor and given to the informer, p. 201, 297.

Pheasants, laws relating to, p. 26, 47, 60.

—— killing in the night, p. 47.

—— eggs, p. 50.

Pointers may be kept, p. 290.

Possession, having game in, and exposing to sale, p. 111, 164.

Poulterer having game, ib.

Prosecutions on game laws, p. 141.

Punishment of unqualified persons, p. 285, to 304.

Purlieu, what, p. 4.

—— man, what, p. 5.

Q.

Qualification act, p. 70.

—— of gamekeepers, p. 259.

Quali-

Qualification, what estates or degrees will qualify, p. 272 to 285.

R.

Rabbets, laws relating to, 55, 71, 72, 287.
 — on wastes and commons, p. 206.
 — killing, &c. in the night, ib.
 — upon the sea banks, p. 207.
 Rangers may seize guns, &c. p. 226.
 — beating them, p. 227.
 Regraters of fish, p. 117.
 Ribble river, p. 156.

S.

Salesmen, having game, p. 164.
 Salmon, laws relating to, p. 19, 94, &c.
 129, 156.
 Scotland, game laws of, p. 158.
 Searching for dogs or engines, p. 63.
 — for game, p. 267.
 — for deer, p. 149, 224.
 Seizing guns, dogs, p. 49, 69, 106, 262, 268.
 — by justices and lords of manors, p. 263.
 — game, p. 264.
 Selling game, p. 104, 110, 164.
 Setting dogs, keeping or using, p. 63, 104.
 Shooting, laws against, p. 94.
 Shooting hares, &c. 309.
 Soldiers killing game, p. 162.
 Southampton salmon fisheries, p. 94, &c. 129.
 Spawn

Spawn and fry of fish, laws relating to, p.
39, 78, 116, 125, 131, 180.

Sprats, p. 193.

Standing corn, hunting in, p. 47, 60.

Statutes, charta forestæ, p. 15.

—— Merton, 30. H. 3. c. 11. p. 18.

—— Westm. 1. 3 Ed. 1. c. 20. ib.

—— Westm. 2. 13 Ed. 1. c. 47. p. 19.

—— de malefactoribus in parcis, 21 Ed.
1. p. 20.

—— ordin. forestæ, 33. Ed. 1. ib.

—— 34. Ed. 1. ib.

—— 1 Ed. 3. c. 8. p. 21.

—— 1 Ed. 3. p. 22.

—— of purveyors, 25 Ed. 3. p. 23.

—— 34 Edw. 3. c. 22. ib.

—— 37 Ed. 3. c. 19. p. 24.

—— 7 Rich. 2. p. 24.

—— 22 Ed. 4. c. 6. p. 25.

—— 1 H. 7. c. 7. ib.

—— 11 H. 7. c. 17. p. 26.

—— 19 H. 7. c. 11. p. 28.

—— 14 and 15 H. 8. c. 10. p. 29.

—— 25 H. 8. c. 11. ib.

—— 32 H. 8. c. 35. p. 32.

—— 33 H. 8. c. 6. ib.

—— 3 and 4 Ed. 6. c. 7. p. 39.

—— 1 El. c. 17. ib.

—— 5 El. c. 21. p. 44.

—— 23 El. c. 10. p. 47.

—— 1 Jac. c. 27. p. 49.

—— 3 Jac. 1. c. 12. p. 53.

—— 3 Jac. 1. c. 13. p. 55.

Statute

Statute 7 Jac. 1. c. 11. p. 60.

— 7 Jac. 1. c. 13. p. 64.

— 16 Car. 1. c. 16. p. ib.

Statutes, 13 Car. 2. c. 10. p. 66.

— 15 Car. 2. c. 2. p. ib.

— 18 Car. 2. c. 2. p. 68.

— 22 & 23 Car. 2. c. 25. p. ib.

— 30 Car. 2. c. 9. p. 76.

— 3 and 4. W. and M. c. 10. p. 80.

— 4 and 5 W. and M. c. 23. ib.

— 10 and 11 W. 3. c. 24. p. 88.

— 4 and 5 Ann. c. 21. p. 94.

— 5 Ann. c. 14. p. 102.

— 9 Ann. c. 25. p. 109.

— 9 Ann. c. 26. p. 113.

— 1 G. 1. c. 18. p. 123.

— 3 G. 1. c. 11. p. 135.

— 5 G. 1. c. 15. p. 139.

— 5 G. 1. c. 28. ib.

— 8 G. 1. c. 19. p. 141.

— 9 G. 1. c. 22. p. 142.

— 2 G. 2. p. 152.

— 10 G. 2. c. 32. p. 153.

— 24 G. 2. c. 34. p. 158.

— 26 G. 2. c. 11. p. 160.

— 27 G. 2. c. 15. p. 161.

— 28 G. 2. c. 12. p. 163.

— 28 G. 2. c. 19. p. 165.

— 29 G. 2. p. 167.

— 33 G. 2. c. 26. p. 175.

— 2 G. 3. c. 15. p. 186.

— 2 G. 3. c. 19. p. 199.

— 5 G. 3. c. 14. p. 202.

Staute

Statute 10 G. 3. c. 18. p. 208.

— 13 G. 3. c. 55. p. 212.

— 13 G. 3. c. 80. p. 212.

— 16 G. 3. c. 30. p. 220.

— 25 G. 3. c. 50. p. 243.

Sturgeons, royal game, p. 2.

Sunday, killing game on, p. 217.

Swans, royal game, laws relating, p. 2, 25, 27.

T.

Teal. See Wild fowl.

Thames fishery, p. 113.

Threatening letters, p. 161.

Tracing hares in the snow, p. 29, 49.

Trespasses committed by sportsmen, p. 306.

Trout, sea, p. 100.

Tunnels, keeping or using, p. 105.

Turbets, how to be imported, p. 128.

U.

Viſtuallers, laws concerning, p. 102

W.

Walls of parks, pulling down, p. 226.

Warren, free, what. p. 8.

— beasts of, p. 9.

— entering into, p. 71.

— borders of, p. 72.

Water bailiff, p. 118.

Water fowl, see Wild fowl.

Wears, erecting, p. 54.

Westminster fish-market, p. 155, 167.

Whales,

Whales, royal game, p. 2.

Widgeon, see Wild fowl.

Wild fowl, laws relating to, p. 29, 39,
50, 153.

— their eggs, p. 31.

— taking in moulting time, p. 112, 154.

Wilts, salmon fisheries, p. 94, &c.

INTRODUCTION.

THE word game comes from the Saxon, and signifies in general any sort of sport or diversion; but in the sense before us, it is used to signify certain animals wild by nature, which belong to the king, by virtue of his royal prerogative; and it seems they are called *game*, on account of the sport or recreation which they yield to those, who practice the taking and destroying them.

Game, in a large sense, is used for all kinds of wild beasts, and birds fit for food, and which are pursued and taken on that account.

Some authors divide game into *large*, which includes red and fallow deer; and *small*, which includes hares, rabbits, pheasants, and partridges.

Game may, however, receive a general division into three sorts or species,—terrestrial, aerial, and aquatic.

Those which seem to have been the objects of our laws, of the first or terrestrial
B species

species, are red and fallow deer, hares and conies.

2. Of the second or aerial sort, are, principally the *swan*, pheasant, partridge, house dove or pigeon, moor game, heath game, grouse, crane, bittern, heron, wild duck, mallard, widgeon, teal, wild goose and others.

3. Of the third or aquatic kind, are, *sturgeon*, *whale*, salmon, salmon mart, salmon peel, trout, pike, barble, carp, chub, grayling, eel, and others.

And of these, sturgeons, whales and swans, are denominated royal game. 17. Co. 16.

OF FORESTS.

THE word forest, signifies a great or * vast wood, and is defined to be a certain territory of woody grounds, and fruitful pastures privileged for wild beasts and fowls of forest chase and warren, to rest and abide in the safe protection of the king, for his princely delight and pleasure; which territory of ground, so privileged, is meered and bounded with unremovable marks, meers, and boundaries, either known by matter of record, or by prescription, and also replenished with wild beasts of venery or chase, and with great coverts of vert for their abode: for the preservation and continuance

* It is said that the New Forest in Hampshire, was raised by the destruction of twenty two parish churches (according to some, and according to others thirty six) and all the villages, &c. for the space of 30 miles.

of which places, together with the vert and venison, there are particular officers, laws, privileges and customs, Manw. 40.

A forest in the hands of a subject, is properly the same thing with a chase, being subject to the common law and not to the forest laws. 2 Black. Com. c. 3.

Our antient norman kings, were the first who inclosed forests and settled their jurisdictions—In the course of a few reigns from the conquest, no less than sixty eight forests were inclosed; the strictest laws were made to secure them; and the severest penalties imposed upon trespassers.

William the Conqueror, decreed the eyes of any person to be pulled out, who took either a buck or boar; William Rufus made the stealing of a doe death; the taking of a hare was fined at 20s. and a coney at 10s. And it is said, that fifty persons of fortune, being apprehended by that last prince, for killing his bucks, were forced to purge themselves by the fire of ordeal, &c.

Henry 1. made no distinction between him who killed a man, and him who killed a buck; and punished those who destroyed the game, though not in the forest, either by forfeiture of their goods or loss of limbs; but, Henry 2. remitted it to a temporary imprisonment.

Richard the 1. revived the old discipline, of castrating and pulling out the eyes of those convicted of hunting in the forest; but he afterwards relaxed a little, and pu-

nished them by abjuration, imprisonment or fine.

Beasts of the forest, are properly the hart, hind, buck, hare, boar and wolf; but *legally* all wild beasts of venery or hunting. It was resolved, Hil. 13. Ed. 3. that *Capreoli*, i. e. roes, are not beasts of the forest, Co. Lit. 233.

O F P U R L I E U S.

HAVING said thus much of forests, purlieus fall next under consideration—the word PURLIEU is said to come from the French, *pur*, clear, entire, and exempt, and *lieu*, a place—that is, a place clear, entire, and exempt from the forest.

A purlieu then, is certain ground near forests, which were by Hen. 1. Hen. 2. and Rich 1. added to their ancient forests over other mens grounds; and which were by King John, Hen 3. and Edwd. 1. disafforested, and made free from the laws and obedience of the forest, 4. Inst. 303.—Manw. 318.

So that purlieus are all such woods and lands as were afforested by H. 1. H. 2. and Rich. 1. and which were by the three succeeding monarchs severed from the forests, as pernicious innovations upon the subject.

But notwithstanding lands were thus disafforested, yet the purlieu, as to some purposes, is forest still, and is disafforested as to the particular owners of the land and for their benefit, and not generally to give liberty

liberty to any man to hunt the wild beasts, and spoil the vert; and if those beasts do escape out of the forest into the *purlieus*, the king hath a property in them still, against any man, except the owners of the woods and lands in which they are; and such owners have a special property in them *ratione soli*, but yet so that they hunt them fairly, and do not forestall them in their return towards the forest. Manw. 366.

A *purlieu man* is he that hath ground within the purlieu, and being able to dispend 40s. by the year of freehold, is by these two points licensed to hunt in his own purlieu: but, nevertheless, a *purlieu man* may not hunt in every man's lands within the purlieu, but in his own lands only; and therefore if he finds the beasts of the forest in his woods or lands in the purlieu, in such case he hath a property in them against any other man, *ratione soli* (the king only excepted); and if he begins the hunting on his own lands, *then* by reason of that property, he may pursue his hunting through any man's woods or lands, so as he doth not enter into any forest, chase, park, or warren: and if he kill the beast in another man's land, and out of such privileged place, he may take and carry away the same by reason of the first property; but if the beast recover the forest, he must call back his dogs, for they are then the king's wild beasts again: and if he do not call back and rebuke his dogs, and they kill the beast in the forest,

he is a trespasser, though himself never came within the bounds thereof; but if in hunting towards the forest, the dogs fasten on it before it is within the bounds thereof, and the dogs still hanging on, are drawn by the deer into the forest, and it is killed there, then by reason of the first property, which he had *ratione soli*, and also by the pursuit and possession thereof, before it entered the forest, he may lawfully enter and take it. Manw. 151. 157. 336. 373.

O F C H A S E S.

A CHASE (from the French *chasser*, to chase) is a privileged place for the custody of deer and beasts of the forest, and is of a middle nature, between a forest and a park, being commonly less than a forest, and not having so many liberties as the court of attachment, *swain-note*, and *justice-seat*, and yet of a larger compass than a park, and having a greater diversity both of officers and game. Cowel. In. v. Chase.

A Chase differs also from a forest, in this, that it may be in the hands of a subject, which a forest in its proper and true nature cannot; for a forest, in the hands of a subject, loseth its name and becometh a chase; and it differs from a park also, in that it is not inclosed, and that a man may have a chase in another man's grounds as well as in his own. *Ibid.* And if it is inclosed, it is a good cause of forfeiture. Manw. 49.

It

It is said that every forest is a chase, but every chase is not a forest. *Ibid.*

Beasts of chase are properly the buck, doe, fox, martern, and roe; but in a common and legal sense extend also to all the beasts of the forest. Co. Lit. 233.

OF PARKS.

THE word park is originally *Celtic*, and comes to us from the French *parquer*, a place inclosed—and is a parcel of inclosed ground, and privileged for wild beasts of chase, by the king's grant or prescription. Co. Lit. 233. From which it follows, that it is not every field or common which a gentleman pleases to surround with a wall or paling, and to stock with a herd of deer, that is thereby constituted a legal park, for the king's grant, or at least immemorial prescription is necessary to make it so. Co. Lit. 233. 11 Rep. 86.

Manwood defines it to be a place of privilege for wild beasts of venery, and also for other wild beasts that are beasts of the forest and of the chase, *tam sylvestres quam campestris*; and a park differs from a chase or warren, in that it must be inclosed, and may not lie open; for if it do, that is a good cause of seizure into the hands of the king, as a thing forfeited; as a free chase is, if it be not inclosed: besides the owner cannot have an action against such as hunt in his park, if it lie open. Manw. *Read. Game.*
Du

Du Cange refers the invention of parks to King Henry the 1. of England; but Spelman shows, that it is much more ancient, and that they were in use among the Anglo-Saxons. Zosimus assures us, the ancient kings of Persia had parks.

It is said, that the first Roman that inclosed wild beasts, was *Fulvius Harpinus*; and that *Varro*, who lived 28 years before Christ, had the first hare warren.

The first park in England is said to have been at Woodstock in Oxfordshire, and was made about the year 1124.

Beasts of park are the same, as those of chace, Co. Lit. 233.

OF FREE WARRENS.

A free warren is a place erected for the preservation or custody of beasts and fowls of warren; which being *feræ naturæ*, every one had a natural right to kill if he could; but upon the introduction of the forest laws at the Norman conquest, those animals being looked upon as royal game, and the sole property of our savage monarchs, this franchise of free warren was invented to protect them, by giving the grantee a sole and exclusive power of killing such game so far as his warren extended, on condition of his preventing other persons. A man, therefore, that has the franchise of warren, is, in reality, no other than a royal gamekeeper.

er: but no man, not even a lord of the manor, could by common law, justify sporting on another's soil, or even on his own, unless he had the liberty of free warren. This franchise is almost fallen into disregard, since the new statutes for preserving the game; the name being now chiefly preserved in grounds that are set apart for breeding hares and rabbits. There are many instances of keen sportsmen in ancient times, who have sold their estates, and reserved the free warren, or right of killing game to themselves, by which means it comes to pass, that a man and his heirs, have sometimes free warren over another man's ground. 2 Black. Com. c. 3.

Beasts of warren are hares, conies, and roes; the fowls are either *campestris*, as partridges, rails, and quails; or *sylvestris* as woodcocks and pheasants, or *aquatiles*, as mallards and herons. Co. Lit. 233.

A free warren may lie open, there being no necessity for inclosing it.

Mich. 12. G. K. and *Sir William Lowther*, It was moved for leave to file an information in nature of a quo warrants against Sir James Lowther, to show by what authority he had made and set up a warren. But it was denied by the court; because it was of a private nature, and therefore proper to be prosecuted, only in the name of the attorney general, by information, if his majesty thought fit. And the like motion had been

been denied before in the case of the lord
Lisburn. Raym. 1409. Stra. 637.

OF FISHERIES.

A free fishery is an exclusive right of fishing in a public river, and is esteemed a royal franchise; and is considered as such in all countries where the feudal polity has prevailed: though the making grants thereof by the king, and by that means appropriating what seems to be unnatural to restrain the use of running water, was prohibited for the future by king John's great charter; and the rivers that were fenced in his time, were directed to be laid open, as well as the forests to be disforested. This opening was extended by the 2d and 3d charters of Hen. 3. to those also that were fenced under Richard 1; so that a franchise of free fishery ought now to be at least, as old as the reign of Hen. 2. This differs from a *several* fishery; because he that has a *several* fishery, must also be the owner of the soil, which in a free fishery is not requisite. It differs also from a *common* of piscary, in that the free fishery is an exclusive right, the *common* of piscary is not so: and, therefore, in a free fishery, a man has a property in the fish before they are caught, in a *common* of piscary not till afterwards; and a *common* of piscary is a liberty of fishing in another man's water. Cro. Car. 390, 391, 553, Keb. 314. 2 Black. Com. c. 3.

Of

Of all these, a forest is the highest franchise of princely pleasure; for it comprehends in it a chase, park, and warren: and for that cause, the beasts of chase, and the beasts and fowls of warren, are privileged within a forest, as well as the beasts of the forest are, *Manw.* 52.

The excellent recreation furnished by the different means of pursuing and taking of game, added to the delicate repast it affords at the table, has induced our sovereigns and great men, to be exceedingly anxious for its preservation: and consequently, the subject of game has brought forth an infinite progeny of laws for their preservation and increase, and those of such a complexion, as clearly show with what ardour they have endeavoured to obtain those ends.

Sir William Blackstone's observations upon this subject are very apposite.

"In the Saxon times (says he) though no man was allowed to kill or chase the king's deer; yet he might start any game, pursue and kill it upon his own estate. But the rigor of these new constitutions vested the sole property of all the game in England, in the king alone; and no man was entitled to disturb any fowl of the air, or any beast of the field, of such kinds as were specially reserved for the royal amusement of the sovereign, without express licence from the king, by a grant of a chase or free warren; and those franchises were granted as much with a view to preserve the breed of animals,

mals, as to indulge the subject. From a similar principle to which, though the forest laws are now mitigated, and, by degrees, grown entirely obsolete; yet from this root has sprung a bastard slip, known by the name of the game law, now arrived to and wanting in its highest vigor: both founded upon the same unreasonable notions of permanent property in wild creatures; and both productive of the same tyranny to the commons: but with this difference; that the forest laws, established only one mighty hunter throughout the land, the game laws have raised a little Nimrod in every manor. And in one respect the antient law was much less unreasonable than the modern; for the king's grantee of a chase or free warren might kill game in every part of his franchise; but now, though a freeholder of less than 100l. a year, is forbidden to kill a partridge upon his own estate; yet nobody else, (not even the lord of the manor, unless he hath a grant of free warren) can do it without committing a trespass, and subjecting himself to an action. 4. Black Com. c. 33.

OF PROPERTY IN ANIMALS.

IT will not here be improper to speak a little to the property which may be had in beasts and animals.

Animals have in law one general division,
1. Tame animals—2. Wild animals.

1. Tame

1. Tame animals.—These are horses, oxen, sheep, goats, hogs, &c. And these are considered in every point of view as part of a man's personal property, and he may bring an action of trespass for injuries done to them.

So domestic fowls, as hens, chicken, peacocks, turkies, and the like, are considered as personal property. Rol. Abr. 5. 18 H. 8.

And so are dogs—And a man may justify an assault in defence of his dog. Rast. Ent. 611.

And by the statute 10 G. 3. c. 18. s. 1, 2. if any person shall steal any dog whatsoever, or sell, buy, receive, harbour, detain, or keep any such, he shall be subject to certain pecuniary penalties. See this Statute at Large.

2. Wild animals.—These are deer, hares, foxes, &c. and all sorts of wild birds. And in these, at the common law, by reason of their ferocious natures and aptness to fly the immediate dominion of man, no property can be had, unless where, 1. they are taken and killed, or, 2. where they are taken and tamed, and then while they are possessed by him they are his absolute property; but as soon as they escape, and assert their natural liberty, from that moment the property ceases; and, 3. where they are inclosed, for by the inclosure, a property is gained in them, so that they can no more be taken and carried away than any other profits of the land, and he hath an independent right in every animal: but in this case also, the property is

C

gone

gone when they escape. 7 Co. 16. 3 Lev. 227. March 49.

And with respect to the pursuit of animals, at common law, these observations are to be made ; 1. That if a man pursues deer, hares, or conies, out of his land, or the lands of another into mine, and there takes them, they are the hunter's, and not mine ; because I never had any original property by inclosing them. 2 Bac. Abr. 613.

But it is said, if a man flies his hawk at a pheasant in his own ground, and the hawk pursues the pheasant into another's warren, the owner of the hawk cannot justify entering the warren and taking the pheasant. Id.

2. If a man hunts conies in my ground, and kills them there, I may seize them, because they are indeed my property by the inclosure ; but if he hunts them out of my ground, they are in the condition of natural liberty. Id.

3. But where a man hunts conies out of a warren, or deer out of a park, and the warrener or parker pursues them, he may retake them, for the park and warren are legal establishments, erected for the purpose of keeping game within their respective boundaries ; so that the property is not altered by driving them out of the inclosures, unless it be also out of the pursuit of the officers. Id.

4. Also the common law, warrants the hunting of ravenous beasts of prey on another's ground, such as foxes, wolves, badgers, &c. but will not justify the digging for them. Id.

THE

THE GAME LAWS.

*Charta Forestæ made 10 Febr. Anno 9 Hen. 3.
Anno Dom. 1224; and confirmed Anno 28
Edw. 1. Anno Dom. 1299. 2 Inst. 310.*

I. **T**HAT all forests, which Henry 2. afforested, shall be viewed; and if he have made forest of any wood not his own, forthwith it shall be disafforested. 4 Inst. Jurisdiction of Forest Courts per totum.

II. That none dwelling out of the forest shall come before the justicers by common summons, unless impleaded there, or be sureties for others attached. 2 Inst. 310.

III. That all woods made forest by Richard 1. or King John, shall be disafforested.

IV. That all archbishops, &c. and other freeholders, which have their woods in forests, shall have them as at the coronation of Henry 2. And those that make purpresture without licence, or waste, or affert,

fert, shall answer for the same. 4 Inst. 307.

V. That rangers shall make range, as at the coronation of Henry 2.

VI. That the inquiry for lawing of dogs shall be made when the range is made, by the view and testimony of lawful men; and he whose dog is not lawed, shall pay 3s. and that no ox shall be taken for lawing of dogs; and such lawing shall be, that three claws of the fore foot shall be cut off by the skin, and shall be done in places where it hath been from the time of the first coronation of Henry 2. 4 Inst. 289. 308.

VII. No forester or bedel shall make scotal, nor shall make any gathering, but upon the oath of the twelve rangers;—that a reasonable number of foresters shall be assigned to the keeping of the forest. Stat. 25 Ed. 3. 7.

VIII. No swanimote shall be kept but thrice in a year, viz. In the beginning of fifteen days afore Michaelmas; and about the feast of St. Martin in the winter, and in the beginning of fifteen days before Midsummer; and the swanimotes to be kept in the counties in which they have used to be kept. 4 Inst. 289. 313. 316.

IX. That every freeman may agest his own wood within the forest, and take his pawnage, and may drive his swine without impediment through the demesne woods.

X. That no man shall lose either life or member for killing deer, but shall make a grievous

grievous fine; and if he have nothing to lose, he shall be imprisoned a year and a day, and then find sufficient sureties, or abjure the realm of England. St. 1 Ed. 3. 8. Sess. 1. St. 1 H. 7. 7. Regist. 80. 4 Inst. 313.

XI. That noblemen coming to the king at his commandment, passing by a forest, may take and kill one or two deer, by view of the forester, or by blowing an horn; and the like on returning.

XII. That every freeman may make in his own wood, or land, or water, in a forest, mills, springs, pools, marshpits, dikes, or earable ground, without inclosing that earable ground, so that it be not to the annoyance of any of his neighbours.

XIII. That every freeman shall have within his own woods, aviaries of hawks, &c. and the honey found in his woods.

XIV. That no forester, which is not forester in fee, shall take any chiminage or toll; but a forester in fee may, of those only that come as merchants through his bailiwick by licence to buy bushes, timber, bark, cole, and to sell it again, and in such places only where it hath been used to be.

XV. All that be out-lawed for the forest only, since the time of Henry 2. until Henry 3. shall come to the King's peace without let, and shall find sureties not to trespass the King's forest.

XVI. No constable, castellan, or bailiff, shall hold plea of forest; but every forester in fee shall make attachments for pleas of

forest, and shall present them to the vierdiers of the provinces; and when they be enrolled and inclosed under the seals of the vierdiers, they shall be presented to the chief justicers of the forest, when they shall come to hold the pleas of the forest, and before them they shall be determined. 4 Inst. 289, 291, 315.

Stat. Mert. 20 H. 3. c. 11. Anno Dom. 1235.
1275.

By this statute the power of the Lords to imprison trespassers in parks and ponds was denied. 2. Inst. 100.

Stat. Westm. 1. 3 Ed. 1. c. 20. Anno Dom.

If trespassers in parks and ponds be attainted at the suit of the party, great and large amends shall be awarded according to the trespass, and shall have three years imprisonment, and after shall make fine at the king's pleasure, and then shall find good surety, that after he shall not commit like trespass. And if he have not whereof to make fine, after three years imprisonment, he shall find like surety; and in default, he shall abjure the realm. And if any being guilty thereof be fugitive, and have no land nor tenement sufficient (whereby he may be justified) so soon as the king shall find it by inquest, he shall be out-lawed. And if none do sue within a year and a day for the trespass,

pass, the king shall have the suit; and such as be found guilty shall be punished in like manner. And if one be attainted, that he hath taken tame beasts, or other thing in the parks, by manner of robbery, let the common law be executed upon him, as for theft and robbery. Stat. 9 H. 3. 10. St. 1 Ed. 3. 8. 1 Seff. St. 1 H. 7. 7. Lord Coke observes, that the reason why this statute was made was, because juries would before give but trifling damages in such cases. 2 Inst. 199.

Stat. Westm. 2. Anno 13 E. 1. c. 47. Anno Dom. 1285.

That all waters, wherein salmon be taken, shall be in defense for taking salmon from the nativity of our lady unto St. Martin's day; and that young salmon shall not be taken nor destroyed at milpools, from the mids of April unto the nativity of St. John Baptist; and in places where fresh waters be, there shall be assigned overseers of this statute, which being sworn, shall see and inquire of the offenders; and for the first trespasss they shall be punished by burning their nets and engines; and for the second they shall have imprisonment for a quarter of a year; and for the third they shall be imprisoned a whole year. And as their trespasss increaseth, so shall the punishment. St. 13 R. 2. 19. St. 17 R. 2. 9. St. 25 H. 8. 7.

Stat.

*Stat. De malefactoribus in parcis, Anno 21
Ed. 1. Anno Dom. 1293.*

That if any forester, parker, or warrenor; shall find any trespassers wandering within his liberty, and that will not yield themselves, after huy and cry made to stand unto the peace, but do flee, or defend themselves with force and arms; such foresters, parkers, and warrenors, or others in their company, and aiding them, shall not be troubled if they kill such offenders, either in arresting or taking them, unless it be done by reason of any malice, discord, debate, or evil will had beforetime.

*Ordinatio Forestæ, made 33 Edw. 1. Anno
Dom. 1305.*

That those whose woods are disafforested, and claim to be quit of charge of the forests, shall not have common within the forest. They which will let their woods be forest as before, shall have common as they had before.

*Ordinatio Forestæ, made Anno 34 Ed. 1. Anno
Dom. 1306.*

I. That trespassers in forests shall by the foresters be presented at the next swanimote, and there inquired of, and the presentments sealed

sealed with the seals of the ministers at the swanimote. V. N. B. 41.

II. That if any Ministers of the forest die, or be absent, the justice of the forest shall put another in his place.

III. That no minister of the forest shall be put in a jury. Regist. 183.

IV. And if any furcharge be found of such as take upon them to be officers of the forest, they shall be removed and imprisoned according to the discretion of the justice, or his lieutenant; and they by whom they were placed shall be also punished at the king's pleasure; and at every swanimote inquisition shall be made of furcharges, and of their oppressions to the people.

V. That trespasses, at such time as the forest was disafforested, be pardon'd.

VI. That the justice of the forest, or his lieutenant, in the presence of the king's treasurer, and by his assent, shall take fines and amerciaments of persons indicted for trespasses committed in forests, and not tarry for the *eyre* of the justice; and that they which had common in the forest before the perambulation, and which returned into the forest, shall have common in the forest.—Regist. 80.

Stat. 1 Ed. 3. c. 8. Anno Dom. 1327.

That from henceforth no man shall be taken nor imprisoned for vert or venison, unless he be taken with the maner, or else
indicted

indicted after the form prescribed by the former statutes; and then the chief warden of the forest shall let him to mainprise, till the eyre of the forest, without reward; and if he will not so do, he shall have a writ out of the chancery; and if such warden do not thereupon deliver such persons indicted to mainprise, then the plaintiff shall have a writ out of the chancery to the sheriff, to attach the said warden to be before the king at a certain day, to answer, wherefore he hath not replevied him that is so taken; and the sheriff shall deliver him by good mainprise, in the presence of the vierders, and shall deliver the names of the mainperners to them, to answer in the eyre before the justices, and the plaintiffs shall have treble damages, and the said warden shall be imprisoned, and ransomed at the king's will.

Stat. 2. Anno 1 Edw. 3. Anno Dom. 1327.

I. That the great charter, and the charter of the forest, be observed and kept in every article; and that the perambulations of the forest be as it was before ridden and bounded; and where it was not bounded, that it shall be bounded.

II. That every man that hath any wood within the forest, may take houseboot and heyboot in his said wood, without being attached for the same, so that he do the same by the view of the foresters.

That

That the temporalities of bishops shall not be seized. St. 14 Ed. 3. 19. St. 25 Ed. 3. 6.

*A Statute of Purveyors made Anno 25 Edw. 3.
c. 7. Anno Dom. 1350.*

That no forester, nor keeper of forest or chace, nor any other minister, shall make or gather sustenance nor other gathering of victuals, nor other thing, by colour of their office, against any man's will, but that which is due of old right. *Charta de Foresta* 7.

34 Edw. 3. c. 22. *Anno Dom. 1360.*

That every person which findeth an hawk, that is lost of its lord, do bring the same to the sheriff, who shall make proclamation thereof in all the good towns in the county; and if the lord which lost the same, or any of his people, come to challenge it, and proveth reasonably that the same is his lord's, let him pay for the costs, and have the hawk; and if none come within four months, that then the sheriff have the hawk, making gree to him that did take him, if he be a simpleman; and if he be a gentleman, that then the sheriff redeliver to him the hawk, taking of him reasonable costs; and if any man take such hawk, and conceal it from the lord, or taketh it from the lord, and thereof be attainted, he shall have

imprisonment of two years, and yield to the lord the price of the hawk, or in default he shall the longer abide in prison. St. 37 Ed. 3. 19.

37 *Edw. 3. c. 19. Anno Dom. 1363.*

That if any steal any hawk, and the same carry away, it shall be done of him as of a thief that stealeth a horse or other thing. 3 Inst. 97.

7 *Rich. 2. Anno Dom. 1383.*

That no jury shall be compelled by any person whatsoever to travel from place to place out of the places where their charge is given to them, against their gree: nor by malice, or by menace, nor other dures, constrained to give their verdict of a trespass done in the forest, otherwise than their conscience shall clearly inform them. St. 9 H. 3. 16.

That no man be taken nor imprisoned by any officer of the forest without due indictment, or being taken with the manner, or trespassing in the forest; nor shall be constrained to make any obligation or ransom to any officer of the forest, in any sort, against their agreement, and the assise of the forest; and offenders herein being attainted, shall pay to the party double damages, and fine and ransom to the king. St. 9 H. 3. 16. 1 Ed. 3. 8.

22 *Edw.*

22 *Edw. 4. c. 6. Anno Dom. 1482.*

That no person, of what estate, degree, or condition he be (other than the king's son): shall have or possess any mark or game of swans of his own, or any other to his use. shall have or possess any such mark or game, except he have lands and tenements of the estate of freehold to the yearly value of five marks, above all yearly charges: And if any person or persons, not having any possession of lands or tenements to the said yearly value, or any other to have or possess lands to his or their use, to have or possess any such mark or game after the said feast, that then it shall be lawful to any of the king's subjects, having lands or tenements to the said value, to seize the said swans as forfeit; whereof the king shall have one half, and he that shall so seize, the other.

Stat. 1 Hen. 7. c. 7.

When information shall be made, of any unlawful hunting, in any forest or park, by night, or with painted faces, to any of the king's counsel, or to a justice of the peace, of any person to be suspected thereof, he may make a warrant to take and arrest the person; and to have him before the maker of the warrant, or any other of the said counsel, or justices of the peace; who may, by their discretion, examine him of the said hunting, and of the said doers in that behalf: And if the same person wilfully conceal the said huntings, or any person with him defective

D

therein,

therein, that then the same concealment be, against every such person so concealing, felony: But if he then confess the truth, and all that he shall be examined of and knoweth in that behalf, then the said offences of hunting, by him done, shall be but trespass, fineable at the next general sessions: And if any rescous or disobedience be made to any person having authority to execute the warrant, by any person which should be arrested, so that the execution of the warrant thereby be not had, then the said rescous and disobedience shall be felony: And if any person shall be convicted of any such huntings, with painted faces, vizors, or otherwise disguised, to the intent they should not be known, or of unlawfully hunting in time of night, then the same person so convicted, to have the like punishment as he should have if he were convicted of felony.

11 *Hen. 7. c. 17. Anno Dom. 1495.*

That it shall not be lawful to any person, of what condition he be, to take or cause to be taken any fessants or partridges, by nets, snares, or other engines, out of his own warren, upon the freehold of any other person, without the assent, agreement, and special licence of the owner or possessor of the same upon pain of forfeiture of 10l. half to the party that will sue, by action of debt, or by bill or otherwise, and the other half to the owner or possessor of the said ground.

That

That no manner of person, of what condition or degree he be, take or cause to be taken, he it upon his own ground or any other man's, the eggs of any fawlkon, gofhawks, laners, or iwans, out of the nest, upon pain of imprisonment of a year and a day, and fine at the king's will, the half to the king, and the other half to the owner of the ground where taken: And that justices of the peace have authority by this act to hear and determine such matter, as well by inquisition as information and proofs: That no man bear any hawk of the breed of England, called a nyesse, gofhawk, tassel, laner, laneret, or fawlkon, upon pain of forfeiture of his hawk to the king: And that all such persons that bring any nyesse hawk or hawks, from parts beyond sea, bring a certificate under the customer's seal of the port where he first landed with them; or if he come out of Scotland, then under the seal of the warden or lieutenant of that march he cometh through, testifying that the same be of parts beyond sea, or of Scotland, upon the same pain: And that the person that bringeth any such hawks to the king, shall have a reasonable reward of the king, or else the hawks for their labour: That no man take any ayres, fawlkon, gofhawk, tassel, or laner, or lanerets; nor purposely drive them out of their coverts accustomed to breed in, to cause them to go to other coverts to breed, nor slay them for any hurt by them done, but suffer them to pass at their liberties, upon

pain of 10l. half to the party that will sue, by action of debt, by examination before the justice of the peace, information, or otherwise, and the other half to the king: Provided, that the moiety given to the owner of the ground for taking swan's eggs, be unto the owner of the swans, and not to the owner of the ground.

19 Hen. 7. c. 11. Anno Dom. 1503.

This act imposes certain penalties relating to deer; which are repealed by 16 Geo. 3. c. 33.

That no person, without his own ground, flea, take, or cause to be taken by craft or engine, any herons, without it be with hawking, or with long bow, upon forfeiture for every heron, 6s 8d. and that no person, without his own ground, take any young herons out of the nest without licence of the owner of the ground upon forfeiture for every heron, 10s. and every man may sue for the forfeitures by action of debt, in which no wager of law, essoin or protection shall be allowed; and two justices in their session shall have authority to call before them any person suspected, and to their discretion to examine them; and if the party be found in default, that he be committed to prison, till he have found surety for payment of the forfeitures to the king; and the justices shall have the tenth part of every such forfeiture for their labour.

14 & 15 Hen. 8. c. 10. *Anno Dom.* 1523.

That no person from henceforth trace, destroy, and kill any hare in the snow with any dog, bitch, bow, nor otherwise; and that the justices at their sessions, and stewards of leets, shall have power to inquire hereof; and offenders shall forfeit for every hare, 6s. 8d. to the king, where found by the justices in sessions; and where found in the leet, to the lord of the leet. See Stat. 1. Jac. c. 27.

25 Hen. 8. c. 11. *Anno Dom.* 1533.

I. *Where before this time there hath been within this realm great plenty of wild fowl, as ducks, mallards, wigeons, teals, wild geese, and divers other kinds of wild fowl, whereby not only the King's most honourable household, and all the houses of the noblemen and prelates of this realm, have been furnished for the necessary expences of the same houses at convenient prices, but also all the markets of the same realm were sufficiently furnished with wild fowl, there to be sold in such wise, that such as were meet to make provision of the same for their houses,

* The first branch of this statute prohibits wild fowl from being taken, between the last day of May and the last day of August; but this was repealed by the Stat. 3 & 4 Edw. 6. 7. and was revived by the Stat. 21 Jac. 28. and continued by the Stat. 3 Car. 1. c. 4. and further continued by the Stat. 16 Car. 1. c. 4. and till some other act should continue or discontinue it. See Stat. 9 Ann. c. 25. 14 and 10 G. 2. c. 32. s. 10.

might at reasonable prices, at the same markets, be thereof provided: nevertheless divers persons next inhabiting in the countries and places within this realm, where the substance of the same wild-fowl have been accustomed to breed, have in the summer season, at such time as the old fowl be moulted, and not replenished with feathers to fly, nor the young fowl fully feathered perfectly to fly, have by certain nets and other engines and policies yearly taken great number of the same fowl, in such wise, that the brood of wild-fowl is almost thereby wasted and consumed, and daily is like more and more to waste and consume, if remedy be not therefore provided. See stat. 33. H. 8. f. 9.

2. Be it therefore enacted by the king our sovereign lord, by the assent of the lords spiritual and temporal, and the commons in this present parliament, That that it shall not be lawful, between the last day of May, and the last day of August, to take, or cause to be taken any such wild fowl, with nets or any other engines, upon pain of one year's imprisonment, and to forfeit for every fowl so taken, 4d. the one half thereof to be to the king, and the other half to him that will sue for the same by action of debt in the king's courts, and in the which action noneessoign, nor protection shall be allowed, nor wager of law received.

3. And be it enacted by the authority aforesaid, that all justices of peace, within the limits

limits of their commission, shall have power and authority to inquire, hear, and determine the offences aforesaid, like as they commonly use and do in cases of trespasss.

4. Provided always, that it shall be lawful to any gentleman, or any other that may depend forty shillings by the year, of freehold, to hunt and take such wild-fowl with their spaniels only, without using any net or other engines for the same, except it be a long-bow or long-bows.

5. That from the first day of March unto the last day of June yearly, no manner of person or persons shall presume by day or by night, willingly to withdraw, purloin, take, destroy, or convey any manner of eggs of any kind of wild-fowl, from or in any nest, place or places, where they shall chance to be laid by any kind of the same wild-fowl, upon pain of imprisonment for one year, and to lose and forfeit for every egg of any crane or bustard, so destroyed, purloined, withdrawn, conveyed, or taken from any nest or place 20d. and for every egg of every bittour, heron, or shovelard, 8d. and for every egg of every mallard, teal, or other wild-fowl, 1d. The one moiety thereof to be to the king, and the other half to him that will sue for the same, in form aforesaid, wherein no wager of law, essoin, or protection shall be allowed. And that all justices of peace, within the limits of their commission, shall have full power and authority

rity to inquire, hear, and determine the same in form before rehearsed.

6. Provided always, that this act extend not, nor be hurtful at any time hereafter to any person or persons, that will destroy any crows, choughs, ravens, and buffards, or their eggs, or to any other fowl or their eggs, nor comestible, nor used to be eaten.

32 Hen. 8. c. 35, Anno Dom. 1540.

That all justices of forests, parks, and chases, by their writing, sealed with the seal of their office, shall appoint, as many deputies for the exercising of the same office of justice of the forest, as to such justices shall be thought convenient; which deputies so appointed, shall have like power to do all things concerning the king's forests, parks, and chases, and concerning the office and offices of the justice of the forests, to all intents and purposes, as the same justice or justices might or may do by the laws of this realm, and as though the same justice or justices were there personally present.

33 Hen. 8. c. 6. Anno Dom. 1541.

1. That no person, except he in his own right, or in right of his wife, or some other to his use, have lands, tenements, fees, annuities, or offices, to the yearly value of one hundred pounds, shall shoot in any cross-bow, hand-gun, hag-but, or demy-hake,

hake, or use to keep them in his house, or elsewhere, otherwise than is hereafter declared, upon pain to forfeit, for every time that he offends contrary to this act, 10l.

2. That no person shall shoot in, carry, keep, use, or have any hand-gun, other than such as shall be in the stock and gun of the length of one whole yard; or any hag-but or demy-hake, but of the length of three quarters of one yard, upon pain to forfeit, for every offence, ten pounds sterling; and every person having lands, tenements, fees, annuities, or offices, to the yearly value of one hundred pounds, may seize and take every such cross-bow, hand-gun, hag-but, and demy-hake, from the possession of every such offender; and the same cross-bows to keep and retain to his or their own use; and the same hand-guns, hag-buts, and demy-hakes, within twenty days next after the seizure, to break and destroy, upon pain of 40s.

3. That no person, other than such as have lands, tenements, &c. to the yearly value of one hundred pounds as aforesaid, shall carry or have in his or their journey, going or riding in the king's highways, or elsewhere, any cross-bow bent, or gun charged or furnished with powder, fire, or touch, except in service of war, upon pain to forfeit, for every offence, 10l.

4. That no person shall shoot with any hand-gun, demy-hake, or hag-but, at any thing at large, within a quarter of a mile of a city, borough, or market-town, except at a
butt

butt or bank of earth, in place convenient, or for the defence of his person or house, upon forfeiture, for every shoot, 10l.

5. And that no person shall command his servants to shoot in any cross-bow, hand-gun, hag-but, or demy-hake, at any thing, except at a butt or bank of earth, or in the time of war, upon pain to forfeit, for every offence, 10l. The one moiety of all these forfeitures to be to the king, and the other to the party that will sue in courts of record, in which suit no essoin, protection, nor wager of law shall be allowed.

6. Provided alway, That it shall be lawful to all gentlemen, yeomen, and servingmen of lords, and of knights, esquires, and gentlemen, and to all inhabitants of cities, boroughs, and market-towns, to shoot with hand-gun, demy-hake, or hag-but, at any butt or bank of earth, in place convenient, so that such hand-gun, demy-hake, and hag-but be of the lengths aforesaid; and that every knight, esquire, and gentleman, and the inhabitants of every city, borough, and market-town, may have in their houses such hand-gun, hag-but, or demy-hake of the lengths aforesaid, to use and shoot as aforesaid.

7. That he which dwelleth in any house distant two furlongs from any city, borough, or town, may keep in his house, for defence, hand-guns, hag-buts, and demy-hakes

hakes of the lengths aforesaid, and may shoot at any butt or bank of earth near his house.

8. That all placards to give licence to shoot in crosse bows and hand-guns, shall be void.

9. That all statutes made for the restraint of shooting in crosse-bows and hand-guns, or for keeping the same, be void.

10. Provided, That every process, suit, or information then depending, for any offence contrary to the statute 25 H. 8. or of any other statute concerning the shooting in crosse-bows and hand-guns, shall be effectual, and have effect.

11. Provided also, That this act be not hurtful to any person appointed by the king to keep, receive, or take any crosse-bows or hand guns, that shall be forfeited or taken within the precinct or liberty of the king's forests, parks, or chases.

12. Provided also, That this act extend not to the makers of crosse-bows or hand-guns, but that they may keep them in their houses, and shoot, for proving them, at a butt or bank of earth, so that they be of the several lengths aforesaid.

13. Provided also, That this act extend not to merchants which have them to sell, so that they be of the several lengths aforesaid.

14. Provided also, That no person take hurt by reason of this act, until proclamation be made of the act within the county, where the offender dwelleth, for twenty days next after the said proclamation.

Provided

15. Provided also, That if any person bring with him into his lodging, or to any other man's house, any cross-bow or hand-gun, that the penalty be only upon the bringer of them, if the owner of the house cause the bringer to take the said cross-bow or hand-gun with him at his departing.

16. That if any person find any one offending against this act, that then every such person finding any such offender, may arrest him, and convey him to the next justice of the same county; and that the justice shall commit him to the next gaol, there to remain till the penalty shall be paid; the one moiety to the king, and the other to the first bringer of the offender to the justice.

17. And if any person do obtain of the king, any placard, licence, or bill assigned, to shoot in any cross-bow, hand-gun, hag-but, or demy-hake, contrary to this act, that then there shall be contained therein at what beasts, fowls, or other things, the person obtaining such placard, &c. shall shoot at, or that every such placard, &c. shall be void.

18. And also that every person obtaining any such placard, &c. shall be bound in the chancery, by recognisance, in twenty pounds to the king's use, upon condition that he shall not shoot at any other beasts or fowls, than in such placard, &c. shall be contained; else all such placards, &c. to be void.

19. And justices in their sessions, and stewards in leets and lawdays, may inquire,
hear,

hear, and determine such offences; so that always no less fine than ten pounds be assessed upon every presentment and conviction; the fine made by the justices to be paid to the king's use; and the one moiety of every fine assessed by the steward of any leet or lawday to be paid to the king; and the other moiety, the one half to the owner of the said leet or lawday, and the other half to the party that will pursue in the king's courts.

And if the jury do wilfully conceal the same offences; that then the justices, stewards, or bailiffs, shall charge and swear another jury, to inquire of such concealment; and if any such be presented by the said jury, then every one of the said first jury shall forfeit twenty shillings to the king.

And the moiety of all the penalties of twenty shillings shall be paid to the owner of the leet or lawday; and the other to the party that will sue for the same in the king's courts.

Provided, That if any person do offend, whereupon cause of action shall be given to the king, or to any other person or persons that will sue for the punishment of the said offence; that if the king, within one year, do not pursue his action, and every other person, within half a year, that then the king and such other persons shall be excluded of their said suits, and the offender shall be discharged and quit.

E

Pro-

Provided, That this act shall not extend to the king's subjects resident near the sea coasts, their houses being not above five miles distant from the same coasts; nor to any inhabiting within twelve miles of the borders of Scotland; nor to any of the inhabitants of Jersey, Guernesey, Anglesey, Wight, and Man; but that the inhabitants thereof may have and use hand-guns, hag-buts, and demy-hakes, of the lengths above-said; so that it be not used at deer, hearon, fovelard, fesant, partrich, wildswine, or wildeke.

Provided also, That this act be not hurtful to any servant or person that shall bend, bear, carry, charge, use, or assay any cross-bow, or any hand-gun, demy-hake, or hag-but, of the lengths above-said, by the commandment of his lord or master, so that they do not shoot at any fowl, deer, or other game; nor to any such servant, person or persons, that shall bear or convey any cross-bow, &c. of the length aforesaid, to any place, by the commandment of his lord or master that may shoot by this act, to be amended, repaired, delivered, or assayed, so that the said servant or other person have ready to shew to every person requiring the sight thereof, one licence sealed or subscribed by his said lord or master, to carry the same, to the intent aforesaid.

Provided always, That this act shall not extend to any owner of any ship, for keep-
ing

ing of them for the exercise and occupying of them within their said ship. Stat. 2 & 3 Ed. 6. ch. 14.

3 & 4 Edw. 6. c. 7. Anno Dom. 1549.

An act for the repeal of the stat. made in the 25th year of King Hen. the 8th. touching the taking of wild fowl at certain times of the year.

This act containing a repeal of so much of the stat. of 25. H. 8. c. 11. as toucheth the taking of wild fowl with engines at certain times; and a confirmation of the other branch of that statute concerning eggs. But see the stat. 25 Hen. 8. and the stat. 9 Ann, c. 25. s. 4. and 10 G. 2. c. 32. s. 10.

1 Eliz. c. 17. Anno Dom. 1559.

An act for the preservation of the spawn and fry of fish.—Made perpetual by 3 Car. 1. c. 4. except the last proviso. See 30 Car. 2. c. 9. and 1 G. 2. c. 18. §. 14.

For the preservation hereafter of spawn, fry, and young breed of eels, salmons, pikes, and of all other fish, which heretofore hath been much destroyed in rivers and streams, salt and fresh, within this realm, in so much, that in divers places, they feed swine and

dogs with the fry and spawn of fish, and otherwise (lamentable and horrible to be reported) destroy the same, to the great hinderance and decay of the common wealth; be it therefore enacted, That no person or persons, of what estate, degree, or condition, soever he or they be, within any manner of net, weel, but, taining, kepper, lime, crele, raw, fagnet, trolnet, trimenet, trimbote, saltbote, weblifter, seur, lammet, or with any device or engine made of hair, wool, line or canvas, or shall use any heling-net, or trim-boat, or by any other device, engine, cawtel, ways or means whatsoever, heretofore made or devised, or hereafter to be made or devised, shall take and kill any young brood, spawn, or fry of eels, salmon, pike or pikerel, or of any other fish, in any floudgate, pipe at the tail of a mill, weare, or in any straites, streams, brooks, rivers, fresh or salt, within this realm of England, Wales, Berwick, or the marches thereof, nor shall, by any of the ways and means aforefaid, or otherwise, in any river or place above specified, take or kill any salmons or trowts, not being in season, being kepper salmons, or kepper trowts, shedder salmons, or shedder trowts.

2. And, That no person or persons, of what estate, degree, or condition, he or they shall be of, by any of the means aforefaid, in any of the rivers or places above named, shall take and kill any pike or pikerel, not
being

being in length ten inches fish, or more; nor any salmon, not being in length sixteen inches fish, or more; nor any trowt not being in length eight inches, or more; nor any barbel, not being in length twelve inches, or more.

3. And to the intent the said young fry, brood, or spawn, may be preserved according to the true meaning hereof, That no manner of person or persons shall fish, or take fish with any manner of tramell, kepe, wore, hivie, crele, or by any other engine, device, ways or means whatsoever, in any river or other places above mentioned, but only with net or tramell, whereof every mesh or mask shall be two inches and a half broad, angling excepted.

4. Provided nevertheless, That in all such places where smelts, loches, minneis, bul-heads, gudgeons, or eels, have been used to be taken and killed, that in all such places, it shall be lawful only for the taking of smelts, loches, minneis, gudgeons, and eels, to use such nets, lépes, and other engines, devices, ways, and means, as heretofore have been used for the taking of the same; so that such person or persons using or occupying such nets or other engines, as is last aforementioned, do not take, kill, or destroy any other fish with the said nets or engines, contrary to the tenour and form above in this statute contained.

5. And that if any person or persons, after

the above said day limited in this present act, offend in any of the points before rehearsed, contrary to the tenor, form, and purpose of any part of the same, that then every such person and persons so offending shall lose and forfeit, for every time of his or their offence, the sum of twenty shillings, and the fish so taken contrary to the tenour hereof, and also the unlawful nets, engines, devices, and instruments whatsoever they be, wherewith or whereby such offence shall fortune to be made, committed, or done.

6. That the lord admiral of England, and the mayor of London, and all other persons, bodies politick and corporate, which lawfully have any conservation or preservation of any rivers, streams, or water, or punishments of offences committed in them, shall inquire of all offences committed against this act, by the oaths of twelve men or more, and to hear and determine the same offences.

7. And all forfeitures shall be to the use of the said person and persons, being no body politick or corporate, nor head of any body politick or corporate, before whom such conviction shall be had, and to the use of every such body politick and corporate, as heretofore have lawfully had any fines, forfeitures, and amerciaments for any offence lawfully committed or done, in their jurisdiction or conservancies, upon conviction
had

had before the head of any such body politic or corporate.

8. And that lords of leets shall inquire of such offences ; such inquiry to be after such sort, as common amerçiements, or other things inquirable in their court leet, have been made.

9. And that all forfeitures presented in the leet, shall be to the lord of the leet, and shall be levied, as amerçiements for affairs of such leet have been used to be levied.

10. And if the steward of any leet do not charge the jury to inquire of offences, contrary to this statute, he shall forfeit 40s. one moiety to the king, and the other to him that will sue ; and if any such jury do conceal, or do not present the offence, or offenders ; then the steward of the leet may impanel another jury to inquire of such concealment, and upon such concealment found and presented, every juror shall forfeit for every offence 20s. to the lord, to be levied as above.

11. And if the offences above mentioned, touching the taking, killing, or destroying of fish, or fry, and spawn, be not presented at the leet within one year, that the justices of peace in their sessions, justices of oyer and determiner, and justices of assize in their several circuits, shall have power to inquire thereof, and to hear and determine the same.

12. Saving to every person all right they have

have to inquire of and punish the said offences.

13. Provided always, That this act shall not extend to the fishing of the Tweed; nor to any river or water whereof the king is answered by any yearly rent or profit; nor to the owners, farmers, and occupiers of the rivers of Uske, or Wye, in the county of Monmouth, for any fish hereafter to be taken in any the rivers or waters before mentioned and expressed: But that it shall be lawful, at all seasonable time and times hereafter, for such as have or shall have any manner of interest therein, to take and fish the said rivers and waters in such manner and form, as heretofore hath been used and accustomed, not using any net or engine, to the intent willingly to take, kill, and destroy the spawn, breed, or fry, breeding any kind of fish within the said several rivers or waters.
3 Car. 4. made perpetual.

5 Eliz. c. 21. Anno Dom. 1564.

An act for punishing of unlawful taking of fish, deer, or hawks.

That if any person shall, by day or by night, unlawfully, without authority, break, cut down, cut out or destroy any head or heads, dam or dams of any ponds, pools, motes, stagnes, stews, or several pits, wherein fish are, or shall happen to be put in or stored withall by the owners or possessioners thereof,

of, or do or shall wrongfully fish in any of the said several ponds, pools, motes, stagnes, stews, or pits, to the intent to destroy, kill, take or steal away any of the same fish, against the will, mind, or pleasure of the owners, or possessioners of the same, not having any lawful title or authority so to do, and thereof be lawfully convicted, at the suit of the king, or the party grieved, shall suffer imprisonment three months, and shall pay to the party grieved, treble damages; and after the three months expired shall find sufficient sureties for his or their good abearing against the king, and all his liege people for seven years, or shall remain in prison without bail or mainprize, until he or they find such sufficient sureties. See the stat. 22 and 23 Car 2. c. 25. s. 7. Stat, 9. G. 1. c. 22. s. 1. and the stat. 5 G. 3. c. 14.

* And, That if any person shall take away any hawk or hawks eggs unlawfully out of any the woods or ground of any person (not having lawful authority or license so to do) and thereof be convicted at the suit of the king, or the party grieved, shall likewise suffer imprisonment for three months, and shall pay to the party grieved treble damages; and after the said three months expired, shall find good sureties for his good abearing, for seven years against the king, or shall remain in prison, without bail or mainprize, until he shall find such sureties.

* This act contained certain provisions relating to deer, which are repealed by the stat. 16 G. 3. c. 30.

4. Pro-

Provided, That the party grieved may sue his further remedy against the offender for his damages, and to recover the treble value of the same, as well before justices of oyer and determiner, justices of assize, and justices of the peace, as elsewhere, in any other the king's courts of record, and that upon the true satisfaction of the said treble damages, or upon confession, by the party grieved, before the said justices in open sessions, the party grieved may release the suretiship within the said seven years.

And the justices of oyer and determiner, justices of assize, and justices of the peace and gaol delivery in their sessions, shall have power to determine the offences aforesaid, and to award process as well upon indictments, as by bill of complaint, information, or other action, in which suit or action no essoin, wager of law, nor protection shall be allowed.

And if any person shall be bound before the said justices to the king for his good abearing as aforesaid, and the party shall, within the said seven years, come before the justices of the county, where the offence was committed, in open sessions, and there acknowledge his offence, and be sorry therefore, and satisfy the party, according to this act, that then the said justices shall within the said seven years, if it shall seem good to their discretions, discharge the same.

23 Eliz. c. 10. Anno Dom. 1581.

An act for the preservation of pheasants and partridges.

That no person shall take, kill, or destroy any pheasants or partridges in the night time, upon pain of forfeiture for every pheasant so taken, &c. 20s. and for every partridge, 10s. within ten days after conviction, or to have one month's imprisonment; and besides, to find sureties before a justice for two years not to offend again; half of all the forfeitures to be to the lord of the manor, and the other to such person as will sue in the courts of record, by bill, plaint, or information; in which noessoign, protection, or wager of law shall be allowed. See stat. 9 Ann. c. 25. and 13 Geo. 3. c. 80.

Provided, That if the person, to whom half of the forfeiture is appointed, shall dispense with, licence, or procure any taking, killing, or destroying of any partridges or pheasants, contrary to this act, that then such penalties, as such person should have, shall be to the poor of the parish where the offence is committed; to be recovered by one of the churchwardens of the parish where the offence be committed.

And, That no person shall hawk, or with his spaniels hunt, in any ground, where corn or other grain shall then grow (except it be in his own ground) at such time as any eared or coddled corn or grain shall be standing

ing and growing upon the same, nor before such time as such corn and grain shall be thocked, cocked, hiled, or copped, upon pain of forfeiture, for every time that he shall so hawk or hunt, as aforesaid (without the consent of the owner of the corn or grain) to such person or persons as shall be owner of the said eared or coddled corn or grain, 40s. and the same to be levied or recovered in manner and form aforesaid.

Provided, That the justices of assizes in their circuits, and justices of the peace in every shire, county and town corporate in their sessions, and stewards of leets, liberties, and lawdayes, shall hear, inquire, and determine of offences against tenour of this act; and every justice shall have power to examine offenders, and take bond with good sureties for their appearance at the next general sessions of the peace, to answer the offence, and pay the penalties, or receive the punishment by this act appointed.

Provided, That this act shall not extend to lowbellers, tramellers, or others, who shall unwillingly take partridges or pheasants by night, under any engine, so as they do presently let go every pheasant and partridge so taken, at the place where they shall happen so to be taken, without willingly killing, or wilfully hurting them. 1 Jac. 27.
7 Jac. 11.

1 Jacobi, c. 27. Anno Dom. 1603.

An act for the better execution of the intent and meaning of former statutes, made against shooting in guns, and for the preservation of the game of pheasants and partridges, and against the destroying of hares with hare-pipes, and tracing hares in the snow.

2. * That every person which shall shoot at, kill, or destroy, with any gun, crosse-bow, stone-bow, or long-bow, any pheasant, partridge, house-dove, or pidgeon, hearne, mallard, duck, teale, widgeon, grouse, heathcock, moregame, or any such fowl, or any hare; or, shall take, kill, or destroy any pheasant, partridge, house-dove, or pidgeon, with setting dogs and nets, or with any manner of nets, snares, engines, or instruments whatsoever, or shall take the eggs of any pheasant, partridge, or swans out of the nests, or wilfully break, spoil, or destroy the same in the nest; or shall trace or course any hares in the snow, or at any time take or destroy any hares with hare pipes, cords, or with any such instruments, or other engines; and the offence being proved by the confession of the party, or by two sufficient witnesses, upon oath before two or more justices, the offender shall be for every offence committed to the common

* This act was made in favour of hawking, and prohibits the destruction of game by shooting and netting, by all persons qualified or unqualified, subject to the proviso in s. 6. but these restrictions as to qualified persons are taken off by many subsequent statutes.

gaol of the county, city, or town corporate, where the offence shall be committed, or the parties apprehended, there to remain for three months without bail or mainprise, unless the offender do forthwith, upon the said conviction, pay, or cause to be paid, to the churchwardens of the parish, where the offence committed, or the party apprehended, to the use of the poor thereof 20s. for every pheasant, partridge, house-dove, pidgeon, hearne, mallard, duck, teale, widgeon, grouse, heathecock, moregame, or any such fowl; and for every egg of pheasant, partridge, or swans, and for every hare, which any and every such person and persons so offending, and convicted, as aforesaid, shall take, kill, or willingly destroy, or after one month after his commitment, with two sufficient sureties, become bound by recognizance in 20l. apiece to the king, with condition that the party, shall not after shoot at, kill, take, or destroy any of the said games, by any of the means aforesaid: which said recognizances shall be taken by any two or more justices of the said county, city, or town corporate, where the offender shall be so imprisoned, and shall be returned to the next quarter sessions, to remain of record. See Stat. 14 & 15 H. 8. c. 10.

3. And every person, which shall have or keep any greyhound for coursing of deer or hare, or setting-dog or dogs, or net or nets, to take pheasants or partridges (except such person shall be seized in his own right,
or

or in the right of his wife, of lands, tenements, or hereditaments, of the clear yearly value of 10l. or more, above all charges and reprises, of some estate of inheritance: or of lands, tenements, or hereditaments in his own right, or in the right of his wife, for term of life or lives, of the yearly value of 30l. above all charges and reprises; or be posselt of goods or chattles, to the full value of 200l. to his own use; or be the son or sons of any knight, or of any baron of parliament, or of some person of higher degree, or the son and heir apparent of any esquire) and being thereof convicted, as aforesaid, shall by the justices be imprisoned in manner as before expressed, except such person so offending, and convicted, do forthwith pay or cause to be paid to the church-wardens of the parish, where the offence shall be committed, or the party apprehended, to the use of the poor thereof 40s. See 22 and 23 Car. 2. c. 25. and 5 Ann. c. 14.

4. And that every person, which shall sell, or buy to sell again any deer, hare, partridge, or pheasant (except partridges and pheasants reared and brought up in house or houses, or brought from beyond the seas) shall forfeit for every deer so bought and sold 40s. for every hare 10s. and for every partridge 10s. and for every pheasant so bought and sold 20s. of all which forfeitures one moiety shall be to him that will sue by bill of indictment or information, and the other to the poor of the parish where the offence committed.

5. And that no person or persons shall be punished by force of any former law for any offence, for which by this law any punishment shall be inflicted : And that all justices of assize, and all justices of the peace in their general quarter sessions, and any two justices of peace, or more together out of sessions, may have full power and authority to hear and determine all offences committed against this act, and to administer oath as aforesaid, and execute every act fit for the execution of this act.

6. † Provided that every person, having free warren, and every lord of a manor, and every freeholder, seised in his own right or in right of his wife, of lands, &c. to the yearly value of 10l. of some estate of inheritance or of lands, &c. in his own right, or in his wife's right, for life, of the yearly value of 30l. or which shall be worth, in goods or chattles, 200l. by himself, or his menial servant (authorised from his master) to take pheasants and partridges in the day time only with nets, upon his master's free warren, manor, or freehold, betwixt Michaelmas and Christmas, yearly.

7. And that it shall be lawful for every person keeping any hawk, which at the general quarter sessions of the county (where he shall dwell) shall be licensed to shoot hail-shot in hand-guns or birding pieces, at crow, chough, pye, rook, ring-dove, jey, or smaller birds,

† This provisoe is repealed by the stat. 7 Jac. c. 6. and new qualifications enacted.

for

for hawks-meat only, to shoot and kill hawks meat, according to the said license only, so that such party so licensed do at the same quarter sessions become bound to the king by recognizance in 20l. not to shoot at the fowl or game aforesaid; and so that he or they shall not shoot within 600 paces of any hernery, nor within 100 paces of any pigeon-house, nor in any park, forest, or chase, whereof the party so licensed, or his master, shall not be owner, keeper, or governor; for which license and recognizance, the clerk of the peace is to take only 12d.

This law to continue to the end of the first session of the next parliament.—3 Car. 1. c. 4. continued until the end of the first session of the next parliament, and further continued by 16 Car. 1. c. 4. till some other act for its continuance or discontinuance.—It seems confirmed by the Stat. 4 & 5 W. & M. c. 23. s. 2.

3 Jac. 1. c. 12. *Anno Dom. 1605.*

An act for the better preservation of sea fish.

Forasmuch as it is certainly known by daily experience, that the brood of sea fish is spawned and lieth in still waters, where it may have rest to receive nourishment, and grow to perfection, and that it is there destroyed by wears, draw-nets, and nets with canvas, or like engines, in the middle or bosom of them, in harbours, havens and creeks, within this realm, to the great damage and hurt

of fishermen, and hindrance of the commonwealth; for that every wear near the main sea taketh in twelve hours sometimes the quantity of five bushels, sometimes ten, sometimes twenty or thirty bushels of the brood of sea fish, and also those which use draw-nets, nets with canvas, or engines, in the midst of them, do every day they fish, destroy the brood of all the sorts of fish aforesaid in great multitudes.

2. For reformation whereof, be it enacted, that every person, that shall erect or set up any new wear or wears along the sea-shore, or in any haven, harbour, or creek, or within five miles of the mouth of any haven or creek, or shall willingly take, destroy, or spoil any spawn, fry, or brood, of any sea-fish, in any wear or other engine or device whatsoever, shall forfeit for every time so erecting, setting up, taking, destroying, or spoiling contrary to this act, the sum of 10*l.* the one half to the king, his heirs, or successors, and the other half to him that will sue for the same: and that every person which in any haven, harbour, creek, or within five miles of the mouth of any haven, harbour, or creek of the sea, shall fish with any draw-net or drag-net, under three inches mesh, viz. an inch and an half from knot to knot, except for the taking of smoulds in Norfolk only, or with any net with canvas, or other engine or device, whereby the spawn, fry, or brood, of sea-fish may be destroyed, shall forfeit such net,

net, and also forfeit for every time so doing, 10s. half to the use of the poor of the city, town corporate, borough, market town, parish, or liberty where the offence shall be committed, and the other half to the person that shall sue for the same; the forfeitures to be levied by the mayor, bayliff, or other head officer of every city, borough, or town corporate; and by warrant of one or more justices, it shall be lawful for the constables and church-wardens of every market town, parish, or liberty within which such offences shall be done, by way of distress and sale of the offender's goods, rendering to them the surplusage, according to the order of former statutes. See stat. 1 G. 1. c. 18. and the stat. 33 G. 2.

3. That this act shall not extend to punish any person, for using any net or nets of lesser mesh than is appointed, only for taking of herring, pilchards, sprats or lavidnian; nor to the isle of Anglesey. See more about fish. 22. and 23. c. 2. c. 25.—30 Car. 2. c. 9.—4 and 5 W. c. 23.—10 and 11 W. 3. c. 24.—4 and 5 Ann. c. 21.—9 Ann. c. 26.—1 G. 1. c. 18.—9 G. c. 22.—22 G. 2. c. 49.—23 G. 2. c. 26.—and 8 G. 3.

3 Jac. 1. c. 13. Anno Dom. 1605.

An act against unlawful hunting, and stealing of deer and conies.*

Whereas since the making of the statute of 5 Eliz. cap. 21. there have been divers

* So much of this statute, as relates to deer, is repealed by 16 G. 3. c. 30.

grounds

grounds inclosed, and used and kept for the preservation and maintenance of [deer and] conies: and whereas there is not by the said statute of 5 Eliz. neither by any other act now in force, any sufficient remedy provided against such malefactors and evil disposed persons, as shall chase, hunt, or kill any of the [deer or] conies within any such grounds, sithence the said statute of 5 Eliz. inclosed and kept and used for the maintenance and preservation of the said game, as aforesaid, or any former grounds, which have been, sithence the making of the said statute, in any part altered: by reason whereof many riots, manslaughters, mischiefs, and other inconveniencies have been daily committed and done, and like to be committed and done, if circumspect remedy be not hereunto provided.

2. Be it therefore enacted, that if any person or persons, shall in the night time, or by day, wrongfully or unlawfully break or enter into any park impaled, or any other several grounds enclosed with wall, pale, or hedge, and used or kept for the keeping, breeding, and cherishing of any [deer or] conies, and wrongfully or unlawfully shall hunt, drive, or chase out, or take, kill, or slay any [deer or] conies within any such impaled park, or closed ground with pale, wall, or other enclosure, as aforesaid, against the will, mind, or pleasure of the owners, occupiers, or possessioners of the same, not having lawful title or authority so to do,
and,

and thereof shall be lawfully convicted at the suit of the king, his heirs, or successors, or the party grieved, shall suffer imprisonment of his or their bodies by the space of three months, and also shall yield and pay to the party grieved his treble damages and costs, to be assessed and rated by the justices before whom he or they shall be convicted, after the said three months expired, and shall find sufficient sureties for his and their good abearing against the king, his heirs and successors, and all his liege people, for the space of seven years after, or else shall remain and continue still in prison without bail or mainprize, until such time as he or they so offending shall find sufficient sureties during the said time and space of seven years.

3. And, That justices of oyer and terminer, justices of assize in their circuits, and justices of peace and gaol-delivery in their sessions, shall have authority to inquire, hear, and determine the said offences, by examination of the offenders, and to make and award process thereupon, as well upon indictments taken before them, as by bill of complaint, information, or any other action; in which no essoin, wager of law, or protection shall be allowed.

4. And, That it shall be lawful to the party grieved to take his further remedy against offenders for his loss and damages, and to recover the treble value of the same, as well before the justices of oyer and terminer,

miner, justices of assize in their circuits, and justices of the peace and gaol-delivery in their sessions, or elsewhere, in any other the king's courts of record at Westminster: And that upon true satisfaction of the said treble damages to the party grieved, or upon the confession or acknowledgment thereof by the said party offending, before the justices in open sessions holden for the county, wherein the same offence shall be committed, it shall be at the liberty of the said party grieved, to whom the said offence is committed, to release at his pleasure the suretiship of the good behaviour, at any time within the said seven years, or before.

5. And, That if any person or persons, not having any manors, lands, tenements, or hereditaments, of the clear yearly value of 40l. or not worth in goods or chattels 200l. shall use any gun, bow, or cross-bow, to kill any [deer or] conies, or shall keep any buckstall or engine, hayes, gate-nets, purse-nets, ferrets, or cony-dogs, except such person or persons as shall have any grounds imparked with pale, or enclosed with wall or hedge, as aforesaid, used for the keeping, breeding, or cherishing of any [deer or] conies; the increasing of which said conies shall amount to the clear yearly value of 40s. to be letten at the least, or keepers or warreners in their parks, warrens, or grounds belonging to their charge, that then any person having lands, tenements, or hereditaments, of the clear yearly
value

value of 100l. in fee-simple, fee-tail, or for life, in his own right, or in the right of his wife, may take from the person or possession of such malefactor or malefactors, and to his own use for ever keep, such guns, bows, cross-bows, buckstalls or engines, hayes, gate-nets, purse-nets, ferrets, and cony-dogs.

6. And, That if any person shall be bound for his good abearing for seven years as aforesaid, and the same party so bound shall come before the justices of the county where the offence was committed, in open quarter sessions, and there acknowledge his offence, that he is sorry therefore, and satisfy the party grieved according to this act, then the justices shall have authority, in the same open sessions, or in any other sessions afterwards to be holden before the said justices in the said county, within the said seven years, if it shall seem good to their discretions, to discharge the recognizance, and also the said party and parties bound.

7. Provided, That this act do not extend to any park or inclosed ground, hereafter to be made and used for deer or conies, without the king's grant or licence.

8. Provided*, That this act shall not extend to any offence concerning the hunting, chasing, or killing of [deer or] conies, which shall be done or committed in the day

* This proviso for deer was repealed 7 Jac. c. 13.—
See the statute.

time, but only to such offences as shall be hereafter done or committed in the night time only: Any thing in this act contained to the contrary thereof notwithstanding.—

3 Car. 1. c. 4. continued until the end of the first session of the next parliament. 16 Car. 1. c. 4. continued until some other statute for its continuance or discontinuance—and it seems confirmed by the stat. 4 and 5 W. & M. c. 23. s. 2.

7 Jac. 1: c. 11. Anno Dom. 1609.

An act to prevent the spoil of corn and grain, by untimely hawking, and for the better preservation of pheasants and partridges.

1. Whereas in the first session of this present parliament there was a good law made amongst other things for the preservation of the game of pheasants and partridges, which hath not yielded that good success, as was by the same law hoped for and intended, through disorderly and unseasonable hawking, whereby great quantity of corn and grain hath been, and is not only uncharitably spoiled and destroyed, but great numbers of pheasants and partridges thereby killed and spoyled, before they be either fit to be hawked at, or to be used for food or diet.

2. For the preventing of both which inconveniencies and mischiefs, be it enacted, That all and every person or persons whatsoever, which at any time doth or shall hawk

hawk at, destroy, or kill any pheasant or pheasants, partridge or partridges, with any kind of hawk or hawks, dog or dogs, by colour of hawking, between the first of July and the last day of August; and the same offence or offences, being proved by the confession of the party, or by the testimony of two sufficient witnesses, upon oath before two or more justices of the said county, city, or town corporate, wherein the offence shall be committed, or the party offending apprehended, shall be by the said justices, for every such offence, committed to the common gaol of the said county, city, or town corporate, where the offence shall be committed, or the parties apprehended, there to remain for one whole month without bail or mainprize, unless the offender do or shall forthwith upon the said conviction pay, or cause to be paid, to the churchwardens or overseers of the poor, or some of them, where the offence shall be committed, or the party apprehended, to the use of the poor of the same parish, 40s. for every such hawking at any pheasant or partridge, and 20s. for every such pheasant or partridge, which any and every such person and persons so offending and convicted (as aforesaid) by himself, his hawk or hawks, dog or dogs, shall take, kill, or destroy, contrary to the true purport, intent, and meaning of this present statute.

3. Provided, That if any person shall be convicted and punished by this law, that

G

then

then he shall not for the same offence be punished by any other law for the like offence.

4. Provided also, That no offender shall be impeached or punished by this act, unless he be accused as delinquent, before the said justices, within six months next after the offence committed.

5. 6. These sections repeal the provisoes in the stat. 1 Jac. c. 27. allowing certain privileges to certain persons therein described.

7. And that every person or persons, which have or shall have free warren, and every lord of a manor, and every freeholder, seised in his own or his wife's right, of lands, &c. to the yearly value of 40l. of some estate of inheritance, or of lands, &c. in his own or in the right of his wife, for life, of the yearly value of 80l. or which shall be worth in goods or chattels 400l. by himself or by his menial and household servants (authorized by their master) may take pheasants and partridges (in the day time only) in and upon his or their masters free warren, manor, or freehold, betwixt Michaelmas and Christmas. See stat. 22 and 23 Car. 2. s. 25.

8. That all persons, which shall take, kill, or destroy any pheasant or partridge, with setting-dogs and nets, or otherwise with any manner of nets, snares, or engines, and the same being proved by confession of the party, or by the testimony of one

one sufficient witness, upon oath before two or more justices of the county, city, or town corporate, where the offence is committed, or the party apprehended, shall be, for every offence, committed to the common gaol for three months without bail or mainprize, unless he shall forthwith pay, or cause to be paid, to the churchwardens or overseers of the poor, 20s. for every pheasant or partridge, and become bound by recognizance to the king in 20l. with condition that he shall not thereafter offend again; which recognizance shall be taken by any one justice of the said county, &c. and shall be returned to the next quarter sessions, to remain of record. See stat. 5 Ann. c. 14. s. 4.

9. And, That every constable and headborough, in every county, city, town corporate, and other place, where they shall be sworn officers, shall and may (bringing with them to that purpose a lawful warrant under the hands of two justices of the peace of the county, city, liberty, or town corporate) have full power and authority to enter into, and search the house or houses of any person or persons (other than such as by this present act are allowed to take pheasants and partridges, with nets, as aforesaid) being suspected to have any setting-dogs or nets, for the taking of pheasants and partridges, and wheresoever they find any such setting-dogs or nets, the same to take, carry away, and detain, kill, destroy, and cut in pieces, as

things prohibited by this act, and forfeited to such of the said officers as shall find out and take the same, as aforesaid.

This law to continue unto the end of the first session of the next Parliament, and no longer : and continued by the 3 Car. 1. c. 4. and 16 Car. 1. c. 4. till some other act for its continuance or discontinuance, and it seems confirmed by the stat. 4 and 5 W. and M. c. 23. s. 2.

7 Jac. 1. *Anno Dom.* 1609. *Cap.* 13.

An act for the explanation of one statute made in the second session of this present Parliament, entitled an act against unlawful hunting and stealing of deer and conies.

This statute, among other things, repeals the last clause of the stat. 3 Jac. 1. c. 13. as far as it relates to deer, and the stat. 16 G. 3. c. 30. repeals this statute, except the said repealing part of it.

16 Car. 1. *Anno Dom.* 1642. *Cap.* 16.

*An Act for the certainty of forests, and of the meets, meers, limits, and bounds of the forests.**

This act recites the inconveniencies which had arisen by extending the bounds of forests

* This statute was made to ascertain the limits and bounds of forests, and was intended as a curb to the oppressive

rests beyond the meets, meers, limits, and bounds thereof, and then enacts, That the meets, meers, limits, and bounds of forests, shall extend no further than the known meets, meers, limits, and bounds thereof, in the 20th of James; and that presentments since the said 20th year, by which the bounds have been further extended; and all presentments by colour of any act done in any place beyond the said meets, &c. and all fines and amerciements, by reason of such presentments, shall be utterly void.

That no place where no justice seat, swainemote, court of attachment, &c. hath been held within sixty years, shall be accounted forest.

And that for the better putting into certainty the meets, and limits of forests, the lord chancellor, or lord keeper shall upon request of any peers, or of members of parliament, grant commissioners to find out by inquests all the meers, &c. of forests, which were commonly known to be their meers, &c. in the said 20th of James: and to return the inquests so taken into chancery; and that sheriffs, and bailiffs, and officers of forests, shall be assistant and attendant to the execu-

G 3

tion

pressive effects of the forest laws. The last court of justice-seat for the forest of any consequence was held in this reign before the Earl of Holland. Another was indeed held after the Restoration before the Earl of Oxford as a matter of form only; but since the Revolution in 1688, the forest laws have fallen into total disuse.

tion of the said commissions, and if they, refuse or neglect such assistance, then the commissioners may proceed without them.

That forests shall not extend beyond the meets, &c. so returned.

And, that all grounds, deafforested, by any letters patent, or otherwise, since the 20 K. James, shall be excluded, and left out of the meets, &c.

That tenants, owners, and occupiers, of lands left out of the meets, &c. shall enjoy their ancient common, and other profits and easements within the forest.

13 Car. 2. *Anno Dom.* 1661. *cap.* 10.

An act to prevent the unlawful coursing, hunting, or killing of deer.

This statute was repealed by the statute of 16 Geo. 3. c. 30.

15 Car. 2. *ch.* 2.

An act for the encouragement of trade.

2. Be it enacted, that no fresh herring, fresh cod or haddock, coal-fish or gull-fish, shall be imported into England, Wales, or the town of Berwick, but in English built ships or vessels, or in ships or vessels, *bona fide*, belonging to England, Wales, or the town of Berwick; and having certificates thereof, and whereof the master and three fourths

fourths at least of the mariners are English, and which hath been fished, caught and taken in such ships or vessels, and so navigated, and not being bought or had of any strangers born, or out of any stranger's bottoms, under the pain and forfeiture of all such herring, cod, haddock, coal-fish, or gull-fish so imported, and of the ship or vessel in which it was imported; one moiety of which forfeitures shall be to his Majesty, his heirs, and successors; and the other moiety to him or them that shall inform, seize or sue for the same, to be recovered by bill, plaint or other action, wherein no essoin, protection or wager in law shall be allowed. And that for the following sorts or kinds of salted or dried fish which shall be imported into England, Wales, or the town of Berwick, in any other ship or vessel than what is English built, or belonging to England, Wales, or the town of Berwick; and having certificate thereof, and whereof the master and three fourths of the mariners at least are English, and not having been fished and caught in such ships or vessels, and so navigated, there shall be paid by way of custom and impost the several sums of money hereinafter particularly mentioned, (that is to say) for cod-fish the barrel five shillings, for cod-fish the last, containing twelve barrels, three pounds; for cod-fish the hundred, containing six score, ten shillings; for coal-fish the hundred, containing six score, five shil-

shillings; for lings the hundred, containing six score, one pound; for white herrings the last, containing twelve barrels, 11. 16s. for haddocks the barrel, two shillings; for gull-fish the barrel, two shillings. This stat. was altered by stat. 1 G. 1. c. 18. s. 1.

Stat. 18 Car. 2. c. 2.

An act against importing cattle from Ireland, and other parts beyond the seas, and fish taken by foreigners.

Be it further enacted, That if any ling, herring, cod, or pilchard, fresh or salted, dried or bloated, or any salmons, eels, or congers, taken by foreigners, aliens to this kingdom, shall be imported, uttered, sold, or exposed to sale in this kingdom: That then it shall and may be lawful for any person or persons to take and seize the same; the one half thereof to be disposed of to the use of the poor of the parish where the same shall be so found or seized; the other half to his or their own use, which shall so seize the same. Enforced by 1 G. 1. Stat. 2. c. 18. s. 2.

Anno 22. & 23. Car. 2. Anno Dom. 1671.
c. 25.

An Act for the better preservation of the game, and for securing warrens not inclosed, and the several fishings of this realm.

1. Whereas divers disorderly persons, laying aside their lawful trades and employments,

ments, do betake themselves to the stealing, taking, and killing of conies, hares, pheasants, partridges, and other game intended to be preserved by former laws, with guns, dogs, tramels, lowbels, hayes, and other nets, snares, harepipes, and other engines, to the great damage of this realm, and prejudice of noblemen, gentlemen, and lords of manors, and others, owners of warrens;

2. For remedy thereof, be it enacted, that all lords of manors, or other royalties, not under the degree of an esquire, may from henceforth by writing under their hands and seals authorise one or more game-keeper or game-keepers within their respective manors or royalties, who, being thereunto so authorized, may take and seize all such guns, bows, greyhounds, setting-dogs, lurchers, or other dogs to kill hares or conies, ferrets, tramels, lowbels, hayes, or other nets, harepipes, snares, or other engines for the taking and killing of conies, hares, pheasants, partridges, or other game, as within the precincts of such respective manors shall be used by any person or persons, who by this act are prohibited to keep or use the same: and moreover, that the said game-keeper or game-keepers, or any other person or persons (being thereunto authorized by warrant under the hand and seal of any justice of the peace of the same county, division, or place) may in the day time search the houses, out-houses, or other places of any such person or persons by this act

pro-

prohibited to keep or use the same, as upon good ground shall be suspected to have or keep in his or their custody any guns, bows, greyhounds, setting-dogs, ferrets, cony-dogs, or other dogs to destroy hares or conies, hayes, tramels, or other nets, lowbels, hare-pipes, snares, or other engines aforesaid, and the same, and every or any of them to seize, detain and keep, to and for the use of the lord of the manor or royalty where the same shall be so found or taken, or otherwise to cut in pieces or destroy, as things by this act prohibited to be kept by persons of their degree.

3. And, That all and every person and persons not having lands and tenements, or some other estate of inheritance, in his own or his wife's right, of the clear yearly value of one hundred pounds *per annum*, or for term of life, or having lease or leases of ninety-nine years, or for any longer term, of the clear yearly value of one hundred and fifty pounds, other than the son and heir-apparent of an esquire, or other person of higher degree; and the owners and keepers of forests, parks, chases, or warrens, being stocked with deer or conies for their necessary use, in respect of the said forests, parks, chases, or warrens, are hereby declared to be persons by the laws of this realm not allowed to have or keep for themselves, or any other person or persons, any guns, bows, greyhounds, setting-dogs, ferrets, cony-dogs, lurchers,

hurchers, hayes, nets, lowbels, hare-pipes, guns, snares, or other engines aforefaid, but ſhall be, and are hereby prohibited to have, keep, or uſe the ſame.

4. And forasmuch as divers warrens and grounds not incloſed, are uſed for the breeding and keeping of conies, in ſeveral parts of this kingdom, and that ſundry diſſolute and diſorderly perſons have been much encouraged to kill and deſtroy the conies in ſuch warrens and grounds not incloſed, in the night time, for that the ſame is not prohibited or puniſhable by the ſtatutes in that behalf made and provided, which extend only to the ſtealing and killing of conies in warrens and grounds incloſed: For remedy thereof, be it enacted, That if any perſon or perſons ſhall at any time enter wrongfully into any warren or ground lawfully uſed or kept for the breeding or keeping of conies (although the ſame be not incloſed) and there ſhall chaſe, take, or kill any conies againſt the will of the owner or accupier thereof, not having lawful title or authority ſo to do, and ſhall be thereof lawfully convicted in manner hereafter following, the parties ſo offending ſhall yield to the party grieved treble damages and coſts, and ſuffer imprisonment by the ſpace of three months, and after, till they ſhall find ſureties for their good abearing.

5. And forasmuch as divers idle and diſorderly perſons, living near unto warrens, have of late time uſed to kill and take the conies

conies upon the borders of the same, and under colour thereof do oft-time enter into the said warrens, and there take and kill conies in the night time, when they cannot easily be discovered: It is further enacted, That no person or persons shall at any time hereafter kill or take in the night time any conies upon the borders of any warrens, or other grounds lawfully used, for the breeding or keeping of conies; excepting only such person or persons as shall be owner of the soil, or lawful occupier or possessor of the ground, or any person or persons employed by him, her, or them, whereupon such conies shall be so killed or taken; upon pain that every person so offending, and being thereof lawfully convicted in manner hereafter following, shall give the party or parties injured such recompence or satisfaction for his or their damages, and within such time as shall be appointed by the justice before whom such offender shall be convicted, and over and above pay down presently unto the overseers, for the use of the poor of the parish where such offence shall be committed, such sum of money, not exceeding 10s. as the said justice shall think meet: And if such offender or offenders do not make recompence or satisfaction to the said party or persons injured, and also pay the said sum to the poor, in manner and form aforesaid, then the said justice shall commit the said offender or offenders to the house of correction

correction for such time as the said justice shall think fit, not exceeding one month.

6. And whereas divers idle and disorderly persons have of late time taken up a practice to take and kill hares and conies with snares, harepipes, and other engines, in or near woods, warrens, or other places; it is enacted, That if any person or persons shall be found or apprehended setting or using any snares, harepipes, or other like engines, and shall be thereof convicted in manner following; the person or persons so offending shall be liable to the penalties in the immediate foregoing clause of this act, in manner as aforesaid.

7. And whereas divers idle, disorderly, and mean persons, do, from time to time, betake themselves to the stealing, taking, and killing of fish, out of ponds, pools, motes, stews, and other several waters and rivers, to the great damage of the owners thereof: be it therefore further enacted, That if any person or persons, shall, at any time, use any casting-net, thief-net, drag-net, trammel, shove-net, or other net whatsoever; or any angle, hair, noose, troll, or spear; or shall lay any wears, pots, nets, fish-hooks, or other engines: or shall take any fish by any means or device whatsoever in any river, stew, pond, mote, or other water, as aforesaid, or shall be aiding or assisting thereunto, without the licence or consent of the lord or owner of the said water, and be thereof, or of any other the offence or

H

offences

offences mentioned in this act, convict by confession of the offender, or by oath of one sufficient witness, within one month after the offence committed, before any justice of the peace of such county, riding, division, or place, wherein such offence, as aforesaid, shall be committed, which oath the said justice of peace is hereby empowered to administer: every such offender or offenders in stealing, taking, or killing fish, shall for every such offence give to the party or parties injured such recompence or satisfaction, for his or their damages, and within such time, as the said justice shall appoint, not exceeding treble damages; and over and above, pay down presently unto the overseers, for the use of the poor where the said offence shall be committed, such sum of money, not exceeding ten shillings; as the said justice shall think meet: and in default of payment, as aforesaid, the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of such justice, before whom the offender shall be convicted, rendering the overplus, if any be; and for want of distress, the offender or offenders shall be committed to the house of correction for such time as the justice shall think fit, not exceeding one month, unless the party offending shall enter into bond with one competent surety or sureties, to the party injured, not exceeding the sum of ten pounds, never to offend in like manner.

8. And

8. And be it further enacted, that it shall and may be lawful for every justice of peace, before whom such offender, as aforesaid, shall be convicted, to take, cut in pieces, and destroy all and every such angles, spears, hairs, nooses, trolls, wears, pots, fish-hooks, nets, or other engines whatsoever, wherewith such offender, as aforesaid, shall be taken or apprehended.

9. Provided always, that if any person or persons shall find him or themselves aggrieved by any judgment which shall happen to be given by any justice of the peace by virtue of this act, it shall and may be lawful for such person or persons so aggrieved to appeal unto the justices of peace in their general quarter sessions, which shall happen to be held next after such judgment given; who, or the greater number of them, are hereby authorized and impowered to give such relief, and make such order therein, as shall be agreeable to the tenor of this act; and such judgment, order, or determination, as by the said justices shall be made upon the said appeal, shall be final to all intents and purposes whatsoever, if no title to any land, royalty, or fishery be therein concerned.

10. Provided always, that this act shall not extend to the taking away or abridging of any royalty, or prerogative-royal of his majesty, nor to abridge, change, or alter any part of the forest-laws of this realm, but all and every such laws, rights, powers,

royalties, and prerogatives-royal, shall remain and be in as full and ample force and virtue, as the same ought to have been in, if this act had not been made.

Anno 30 Car. 2. Anno. Dom. 1677. Cap. 9.

An act for preservation of fishing in the river of Severn.

1. For preservation of the fishing in the river of Severn, in the counties of Worcester, Salop, and Gloucester, and for the preventing of several abuses lately practised by divers persons fishing in the said river, tending to the destruction of the common piscary, especially of the spawn, fry, and young breed of fish in the said river; be it enacted, That if any person or persons whatsoever, shall in the said river of Severn fish with any net, device, or engine, or make use of any net, wear, spear, or other engine or device whatsoever, whereby any salmon, trout, pike, or barbel, under the length appointed by the statute, 1 Eliz. shall be taken or killed, or if any person or persons whatsoever shall, within the said river fish with any net whatsoever, for the taking of salmon, salmon-mart, salmon-peal, pike, carp, trout, barbel, chub, or grayling, the mesh whereof shall be under two inches and a half square by the standard, and not extended, that is to say, two inches and a half square from knot to knot, allowing

ing to each mesh four knots, or which shall be above twenty yards in length, and two yards in breadth or depth, or above fifty yards in length, and six yards in breadth or depth in the wing of the net, in any part of the said river of Severn, from Ripple-Lock-stake on the edge of the said county of Worcester, to Gloucester Bridge, which is upon the said river of Severn, or above sixty yards in length, in any part of the river of Severn below Gloucester Bridge, and six yards in breadth or depth in the wing of the net, or shall fish with more than one of those nets at any one time, that is to say, with two or more fixed together, or with any drag-net, trammel, or any other net fixed to the same, or shall use any net, engine, instrument or device whatsoever, for the taking of the fry of eels commonly called Elvers, every such person offending, as aforesaid, shall forfeit the sum of five pounds for every time that he or they shall fish with any of the said unlawful nets, instruments, devices, or engines; and also the fish so taken or killed, together with the said unlawful nets, engines, devices, and instruments, whatsoever they be, wherewith or whereby such offences shall be made, committed, or done; and also shall forfeit the like sum of five pounds for every time that he or they shall water any manner of hemp or flax in the said river.

2. And be it further enacted, That if any person or persons shall, during the time of spawning of fish (to wit) be-

tween the first day of March and the last day of May, draw or lay any kind of nets, instruments, or engines, in the fords, streams, or shallows of the said river, where fish doth usually spawn, or shall do or commit, or cause to be done or committed, any act whatsoever, whereby the spawn or small fry of fish shall be killed, or destroyed, every such person or persons so offending shall forfeit and lose the sum of forty shillings for every offence, and the nets, instruments, or other engines so used, placed, or employed, for the purposes aforesaid.

3. And to the intent that a perfect execution may be had of this present act, be it enacted, That the justices of the peace within the said respective counties of Worcester, Salop, and Gloucester, wherein they shall be justices, shall be, and are hereby appointed conservators of the said river, and to make one or more under-conservators within their respective limits; and that the said justices of the peace shall issue forth their warrants under the hands and seals of any two of them, directed to such under-conservator or conservators, or to any constable, tythingman, or headborough, where any such offence shall be committed, upon their own knowledge, or information to them given, to search in the day time in all suspected houses and places for all such nets, instruments, devices, and other engines, and the same to seize, and bring before the said

said justices, or in their open quarter sessions, that the said unlawful nets, instruments, devices, and engines, may, upon the view thereof, be burnt, destroyed, or made useles.

4. Provided always, That no person or persons offending, as aforesaid, shall be punished for any of the offences aforesaid, unless by information or indictment before his Majesty's justices of assize and *nisi prius*, oyer and terminer, and general gaol delivery, or in the general sessions of the peace to be holden for the said counties respectively, wherein the same shall be committed, and upon conviction of any person or persons for any of the offences aforesaid, the said respective courts shall award execution for the said forfeitures; the one moiety thereof to the use and benefit of the poor of the parish where the said offence shall be committed, and the other moiety to such person or persons as shall prosecute the same, by *fieri facias*, or *capias ad satisfaciendum*, as the king's majesty's justices at Westminster may and use to do.

5. Provided also, That this act do not extend to abridge the jurisdiction of the lords of leets or franchises, within their respective leets or franchises, but that they may proceed to inquire, hear, and determine any the offences aforesaid, within their respective leets and franchises, as formerly they have lawfully used to do.

6. Saving always unto the king, his heirs, and successors, and to all and every person and persons whatsoever, all rights, titles, and interests whatsoever, that they either have, or may lawfully claim in the said river, as if this act had never been made.

*Anno 3 & 4 W. & M. Anno Dom. 1692.
Cap. 10.*

An Act for the more effectual discovery and punishment of deer stealers.

This statute is repealed by the statute 16 G. 3. c. 30.

*Anno 4 & 5 Gulielmi & Mariæ, 1693.
cap. 23.*

An act for the more easy discovery and conviction of such as shall destroy the game of this kingdom.

1. Whereas divers good and necessary laws have been heretofore made for the better preservation of the game, notwithstanding which laws, or for want of the due execution thereof, the game of this kingdom hath been very much destroyed by many idle persons, who afterwards betake themselves to robberies, burglaries, or other like offences, and neglect their lawful employment.

2. For remedy whereof, and the more effectual preservation of the game, be it enacted,

enacted by the king and queen's most excellent majesties, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all and every law and statute now in force for the better preservation of the game, and every article and thing in them contained, and not herein and hereby altered or repealed, shall be duly put in execution, according to the tenor of the said laws, and under the penalties therein contained, to be raised, levied, and disposed of, as in and by the said laws are directed.

3. And be it further enacted by the authority aforesaid, That for the more easy conviction of such offenders, as by the said laws are prohibited, every constable, headborough, and tythingman, being thereunto authorized by warrant of one or more justice of the peace, under his or their hands and seals, shall and may have full power and authority, and is hereby required to enter into and search (in such manner, and with such power as in and by *An Act for the more effectual Discovery and Punishment of Deer Stealers*, made in the third and fourth years of their present Majesties reign†, is
pro-

† The act referred to is repealed by 16 Geo. 3. c. 30. The clause alluded to is as follows:—"That every constable, headborough, and tythingman (being thereto authorized by the warrant of one or more justices of peace, under his or their hands and seals) shall and may have
to

provided, in case of venison or skin of any deer or toyles) the house or houses, out-houses, or other places belonging to such houses of suspected persons, not qualified as aforesaid; and in case any hare, partridge, pheasant, pidgeon, fish, fowl, or other game (upon such search, or otherwise) be found, the offender shall be carried before some justice of peace of the same county, riding, or division; and if such person do not give a good account how he came by such hare, partridge, pheasant, pidgeon, fish, fowl, or other game, such as shall satisfy the said justice, or else shall not in some convenient time, to be set by the said justice, produce the person of whom he bought the same, or some other credible person to depose upon oath such sale thereof, that then such person not giving such good account, nor producing any such witness, as aforesaid, shall be convicted by the said justice of such offence, and upon such conviction shall forfeit for every hare, partridge, pheasant, pidgeon, fish, fowl, or other game, any sum not under five shillings, and not exceeding the sum of twenty shillings, to be ascertained by the said justice: one moiety there-

full power and authority (and hereby is required) to enter into and search (in such manner, and with such power, as in case where goods are stolen or suspected to be stolen) the house or houses, out-houses, or other places belonging to such houses of suspected persons; and in case any venison, &c."

of

of to be paid to the informer, and the other moiety to the poor of the parish where the offence was committed, the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of the justice before whom the offender shall be convicted, rendering the overplus, if any be; and for want of distress, the offender or offenders shall be committed to the house of correction, for any time not exceeding one month, and not less than ten days, there to be whipt and kept to hard labour; and in case any person or persons, not qualified by the laws of this realm so to do, shall have, keep, or use any bows, greyhounds, setting-dogs, ferrets, coney-dogs, hayes, lurchers, nets, tunnels, lowbels, hare-pipes, snares, or any other instruments for destruction of fish, fowl, or other game, and shall be thereof convicted upon such evidence as aforesaid, the person or persons so convicted shall forfeit and be subject to the same pains and penalties, as are hereby directed to be inflicted upon the person or persons, who shall be found to have any hare, partridge, pheasant, pidgeon, fish, fowl, or other game, as aforesaid; and if any person or persons so produced or charged with the said offence, shall not before the same justice give such evidence of his innocence, as aforesaid, he shall be convicted thereof in the same manner as the person or persons first charged therewith is hereby directed

ed to be, and so from person to person, until the first offender shall be discovered.

4. And to the end all keepers and game-keepers mentioned in, and duly authorized according to, the statute 22 and 23 Car. 2. may be indemnified in the execution of the said office, be it enacted, That all lords of manors or other royalties, or any person or persons authorized by them as game-keepers, shall and may, within their respective manors or royalties, oppose and resist such offenders in the night time in the same manner, and be equally indemnified for so doing, as if such fact had been committed within any ancient chase, park, or warren inclosed whatsoever.

5. And whereas divers idle, disorderly, and mean persons have and keep nets, angles, leaps, piches, and other engines for the taking and killing of fish out of the ponds, waters, rivers, and other fisheries, to the damage of the owners thereof; be it therefore enacted, That no person or persons, whatsoever shall and may, at any time or times, have or keep any net, angle, leap, piche, or other engine for the taking of fish (other than the makers and sellers thereof, for their better conveniency in the sale of the same, and other than the owner and occupier of a river or fishery for the time being) and moreover, That it shall and may be lawful, not only for the owner or occupier of any river or fishery, and also for all
and

and every other person or persons by him or them for that purpose appointed, to seize, detain, and keep to his and their own use and uses, all and every net, angle, leap, piche, and other engine, which he or they shall find used or laid, or in the custody or possession of any person or persons whatsoever, fishing in any river or fishery whatsoever, without the consent of the owner or occupier thereof, but also for any person or persons whatsoever (being thereunto authorized by warrant under the hand and seal of any justice of the peace of the same county, division, borough, town corporate, or any other place, in the day time to search the houses, out-houses, or other places of any person or persons hereby prohibited to have or keep the same, as shall be suspected to have or keep in his or their custody or possession any net, angle, leap, piche, or other engine aforesaid, and the same and every or any of them to seize, detain, and keep to his and their own use and uses, or otherwise to cut in pieces, or destroy, as things by this act prohibited to be kept by persons of their degree.

6. Provided always, That this act shall not extend to abridge any fisherman or his apprentice or apprentices, lawfully authorized to fish in navigable rivers or waters, with lawful nets and engines, but that every of them shall and may (according to the laws and orders made, and to be made and settled for the good order, rule, and

I

govern-

government of such navigable rivers and waters) use the trade of fishing, as they lawfully might have done before the making of this act; any thing in this act contained to the contrary in any wise notwithstanding.

7. And whereas divers offenders duly convicted do commonly procure writs of *certiorari* to remove such convictions into superior courts at Westminster, in hopes thereby to discourage and weary out such persons injured, by great delays, expences, and incertainties; be it therefore enacted, that no *certiorari* shall be allowed to remove any conviction made, or other proceeding of, for, or concerning any matter or thing in this act, unless the party or parties, against whom such conviction shall be made, shall before the allowance of such *certiorari* become bound to the person or persons prosecuting, in the sum of fifty pounds, with such sufficient sureties, as the justice or justices of the peace, before whom such offender was convicted, shall think fit, with condition to pay unto the said prosecutors (within one month after such conviction confirmed, or *procedendo* granted) their full costs and charges, to be ascertained upon their oaths; and that in default thereof, it shall be lawful for the said justice and justices, and others, to proceed to the due execution of such conviction, in such manner as if no *certiorari* had been awarded.

8. Pro-

8. Provided, That where any offender shall be punished by force of this act, he shall not be prosecuted nor incur the penalty of any other law or statute for the same offence.

9. Provided always, That if any action, bill, plaint, or suit, shall at any time be commenced or brought against any person or persons whatsoever, for or by reason of any matter or thing which he or they shall do in pursuance of this act, it shall and may be lawful to and for the person or persons so sued or prosecuted, to plead the general issue, and give this act, or any other special matter in evidence; and if the verdict shall pass with the defendant or defendants in such action, or the plaintiff or plaintiffs become nonsuit, or suffer any discontinuance thereof, that in any such case such defendant or defendants shall have his or their treble costs, which he or they shall have sustained in defence of such action or suit, for which the said defendant or defendants shall have the like remedy, as in other cases where costs by the laws of this realm are given to the defendants.

10. And whereas great mischiefs do ensue by inferior tradesmen, apprentices, and other dissolute persons neglecting their trades and employments, who follow hunting, fishing, and other game, to the ruin of themselves, and damage of their neighbours; for remedy whereof, be it enacted, That if any such person, as aforesaid, shall presume to

hunt, hawk, fish, or fowl (unless in company with the master of such apprentice, duly qualified by law) such person or persons shall be subject to the penalties of this act, and shall or may be sued and prosecuted for their wilful trespass in such their coming on any person's land, and if found guilty thereof, the plaintiff shall not only recover his damages thereby sustained, but his full costs of suit; any former law to the contrary notwithstanding.

11. Provided always, That for the better preserving the red and black game of grouse, commonly called heath-cocks, or heath-polts, no person whatsoever, on any mountains, hills, heaths, moors, forests, chases, or other wastes, shall presume to burn, between the 2d day of February, and 24th of June, any grig, ling, heath, furze, goss, or fern, upon pain that the offender or offenders shall be committed to the house of correction, for any time not exceeding one month, and not less than ten days, there to be whipt, and kept to hard labour. See stat. 28 G. 2. c. 19. s. 3.

*Anno 10 & 11 Gulielmi III. Regis, c. 24.
Anno Dom. 1699.*

An act for making Billingsgate a free market for sale of fish.

Whereas the public wealth, honour, and safety of this kingdom, as well as the maintenance of trade, and support of navigation,
as

as in many other respects, depend on the improvement and encouragement of the fishery, and Billingsgate having, time out of mind, been a free market for all manner of floating and salt fish, as also for all manner of lobsters, and shell fish; nevertheless divers abuses, evidently destructive to that trade, have been of late years practised, by raising new impositions and tolls, and by forestalling of the markets, and other methods used by the fishmongers, in not permitting the fisherwomen and others to buy the said fish of the fishermen, to sell them again in London and elsewhere, by which means the fishermen are obliged to sell their fish to the said fishmongers at their own rates, to the great discouragement of the said fishermen: For remedy whereof, be it enacted, That Billingsgate market, within the said city of London, shall be every day in the week (except Sundays) a free and open market for all sorts of fish whatsoever; and that it shall and may be lawful for any person or persons to buy or sell any sort of fish in the said market, without any disturbance or molestation whatsoever.

2. And for the better encouraging the said fishery, be it further enacted, That no fisherman or other person or persons, selling any sort of sea fish in the said market, shall pay to any person or persons any other toll or duty whatsoever, for coming with his boat or vessel, or landing, standing, being, or
I 3
selling,

selling, in or at the said market of Billingsgate, than is herein after mentioned, that is to say,

For every vessel with salt fish, for groundage, 8d. per day, and 20d. per voyage for every such vessel, and no more, in full for all duties and demands, to be disposed of and distributed, as the lord mayor and court of aldermen shall yearly order and direct, according to the right of the respective persons intituled thereunto.

For every lobster boat, for groundage per day, 2d. and per voyage, 13d. and no more, in full for all duties and demands, to be disposed of and distributed as aforesaid.

For every vessel of fresh sea fish, for groundage per day, 2d. and per voyage, 13d. and no more, in full for all duties and demands, to be disposed of and distributed as aforesaid.

For every dogger boat or smack with sea fish, for groundage per day, 2d. and per voyage 13d. and no more, in full for all duties and demands, to be disposed of and distributed as aforesaid.

For every oyster vessel or cock, for groundage per day, 2d. for metage one half-penny per bushel, and no more, and per voyage 13d. and no more, in full of all duties and demands, to be disposed of and distributed as aforesaid.

3. And be it further enacted, That it shall and may be lawful to and for any person or persons whatsoever, who shall buy
any

any fish in the said market, to sell the same gain in any other market, place or places within the said city of London, or elsewhere, by retail: Except nevertheless, that none but fishmongers shall be permitted to sell in public or fixed shops or houses, being sound and wholesome fish without any lett or disturbance from any person or persons whatsoever for so doing; any law or statute to the contrary thereof in any wise notwithstanding.

4. Provided nevertheless, that this act shall not extend to alter any law now in being, concerning fish caught by foreigners.

5. And whereas in the 5th of Q. Eliz. among other things, it was enacted, That it should not be lawful to any person or persons, in any port, city, town, or market, or other place within this realm, to set price, make any restraint, or take or demand toll or tax of any sea fish to be brought into this realm, or any part thereof, being taken by any of her Majesty's subjects, in ships and other vessels of the same subjects, upon pain to every person offending contrary to the meaning thereof, to forfeit the value of the fish so restrained, prized, tolled, or taken; any liberty, custom, grant, privilege, or other matter whatsoever to the contrary in any wise notwithstanding, yet contrary to the true meaning thereof, several tolls, samples, and other exactions, have been demanded and taken of sea fish: be it therefore enacted by the authority aforesaid,
That

That any person or persons taking or demanding any toll or sample, or any other imposition, or set price of any sea fish whatsoever of English catching, shall forfeit the sum of ten pounds, the one moiety thereof to his Majesty, and the other moiety to such person as shall sue for the same.

6. And whereas of late years, an evil practice hath been used by the fishmongers, in employing one or two persons at the most, to buy up all or the greatest part of the fish which is brought to the said market at Billingsgate, and afterwards dividing the same amongst the fishmongers by lots, by reason whereof the fishmongers buy and sell at what rate they please, be it therefore enacted, That no such practices shall be at any time hereafter used or allowed.

7. And for the better preventing the same, or the like evil practices for the time to come, be it further enacted, That no person or persons whatsoever shall at any time employ or be employed by any other person or persons, in buying in or at the said market of Billingsgate, any quantity of fish, to be divided by lots or in shares amongst any fishmongers, or other persons, in order to be afterwards put to sale by retail or otherwise; nor shall any fishmonger, at any time, engross or buy in the said market of Billingsgate, any quantity of fish, but what shall be for his own sale or use, and not for or on the behalf of any other fishmonger to expose to sale, under pain of forfeiting for
each

each such offence, 20l. one moiety thereof to the use of the poor of the parish where such offence shall be committed, and the other moiety to his or their own use who shall sue for the same : and that no fisherman, or other person or persons, shall bring on shore, or put to sale any lobsters, that are not eight inches from the peak of the nose unto the end of the middle fin of the tail, under pain of forfeiting for every such lobster the sum of one shilling, the one moiety to the poor of the parish where the offence shall be committed, the other moiety to the prosecutor, to be recovered upon conviction before the chief magistrate of any city or town corporate, or before the next justice of peace where such offence shall be committed,

8. And for the better encouragement of the fishery of this kingdom, be it further enacted by the authority aforesaid, That no * fish (except stock fish and live eels) taken or caught by any foreigners, aliens to this kingdom (except Protestant strangers inhabiting within this kingdom) shall be imported in any foreign ship, vessel, or bottom, not being wholly English property, and uttered, sold or exposed to sale in this kingdom, under the pain of the forfeiture of such ship, vessel, or bottom, with the tackle thereunto belonging, and of all such fish so imported and sold, contrary to

* The stat. 1 G. 1. c. 18. s. 10. excepts lobsters and turbets.

the true intent and meaning hereof, one moiety thereof to the use of the poor of the parish where the same shall be so found or seized, the other moiety to his or their own use who shall so seize the same.

9. Provided nevertheless, That this shall not be construed to prohibit the importation of anchovies, sturgeon, botargo or cavear, nor selling of mackarel before or after divine service on Sundays.

10. Provided always, That this act shall not be construed to take away any ancient duty of cod and ling, payable to the kings of this realm, for the service of their household, by such merchants as trade to Westminster and Iseland, but that the same may be taken by his majesty's officers, in such manner as the same hath been lawfully used to be taken before the making of this act. See the statute 9 Ann. c. 26.

Anno 4 & 5 Annæ Reginae, 1706. cap. 21.

An act for the increase and better preservation of salmon and other fish, in the rivers within the counties of Southampton and Wilts.

1. Whereas the salmon and salmon-kind of fish, resorting to spawn within the rivers and freshes in the county of Southampton, and southern parts of Wiltshire, are in danger of utter decay, to the great loss of this kingdom; and the royalties and fisheries in the said counties are in great measure consumed

fumed and destroyed, by placing divers engines and other devices in and upon the main rivers, and in the new chanel, dikes, and cuts, which now are or shall be cut out of the same rivers, by means whereof the salmon strikes or kippers, as well as the young fry or smelts, are taken and destroyed, and are prevented from returning to the sea in season: and whereas the owners and occupiers of the salmon fisheries within the said counties, regarding only their private and greedy profit, do destroy the stock of the said fisheries by preventing the breed of good fish to pass in season through their fishing wyres and fishing hatchways from the sea into the said rivers to spawn, and by killing such as are under size, and by fishing continually out of season at and in the said fishing wyres and creeks of the rivers, with nets and other devices, whereby not only the encrease of the species of the said fish, but also the growth thereof is in great measure destroyed: and whereas notwithstanding the many good laws before this time made and still in force, with intent to prohibit unlawful killing or otherwise destroying the game of this kingdom, divers sturdy and disorderly persons (through defect in the said laws for sufficiently punishing of offenders, and neglecting their lawful employments) do poach with nets and angles, gins and other unlawful engines, and by unlawful means in the night, and at other times, do take, kill, and destroy the fish,

to

to the great detriment of the lords of manors, and the other owners and occupiers of fisheries in the said county of Southampton and southern parts of Wiltshire: for remedy whereof be it enacted, that the statute 4 and 5 Will. and M. now in force for the better preservation of the game, relating to salmon fishing, and every article and thing therein contained, shall be duly put in execution, according to the tenor of the same, and that the statute 13 Ed. 1. whereby it is provided that the waters of Humber, Owse, Trent, Dover, Arre, Derwent, Wherfe, Niddiore, Swale, Tese, Tine, Eden, and all other waters wherein salmon be taken, shall be in defence from taking salmon, from the nativity of our lady, unto St. Martins day; and likewise that young salmon shall not be taken nor destroyed by nets, nor by other engines, at mill-pools, from the midst of April, unto the nativity of St. John the Baptist, and in places where fresh waters be, shall extend and be in full force, as well to all and every the rivers, creeks and waters in the county of Southampton, and southern parts of Wiltshire, as to the waters in the last mentioned act contained, and in like manner; and under the same pains and penalties as therein mentioned.

2. And be it further enacted, That there shall be assigned overseers of this statute by any two or more justices of the peace, residing within five miles of the respective rivers within the said counties of Southamp-
ton

ton and Wiltshire, under their hands and seals from time to time, who being sworn before the said justices of the peace, shall often see and enquire after the offenders against this statute, and shall take and apprehend all and every such offender and offenders, and take and destroy all nets and other craft and engines, where they shall find the same, being kept, used, or in being, contrary to this or any other act now in force relating to fishing, and all and every offender and offenders so taken or apprehended by the said overseers, or any of them, or by any other lawful means, shall be brought before some justice of the peace of the said counties, to answer for every such offence, and being convicted by one or more witnesses upon oath (which oath the said justice hath hereby power to administer) or confession of such offender, shall for the first trespass or offence forfeit a sum to be ascertained by such justice of the peace, before whom such conviction shall be made, not under 20s. nor more than 5l. and for the second trespass or offence shall forfeit a sum not under 40s. to be ascertained as aforesaid, nor more than 10l. and as the trespass or offence shall increase, to double the penalty, to be ascertained, as aforesaid; one half thereof to be paid to the informer, and the other half thereof to the poor of the parish where the said offence or offences shall be committed;

ted; and in case the offender or offenders shall not be able, or do not on demand pay the said penalty or penalties, then he or they shall be sent by such justice of the peace, before whom such conviction shall be made, as aforesaid, to the house or houses of correction within the said respective counties where such offender or offenders shall be taken, and there kept for the space of there months.

3. And, That no person or persons (not being by law duly qualified) shall hereafter kill, destroy, or wilfully hurt any salmon or salmon-kind, or any other fish, and that neither they nor any other person or persons whatsoever, shall and may at any time or times, take, kill, or destroy any salmon, salmon-peale, or salmon-kind, by hawks, racks, gins, nets, angles, or other devices whatsoever, untill after the eleventh day of November in every year, or offer to sale any of the said fish so taken, under the like pains, penalties, forfeitures, and imprisonments, as are herein before mentioned.—By the 1 Geo. 1. c. 18. s. 11. this clause, so far as it concerns owners and proprietors of fisheries in those rivers, is repealed.

4. And, That if any salmon or salmon-kind shall go into any of the dikes, cuts, or water carriages, that then all owners and occupiers of meadow grounds, in

In and upon the banks of any waters or rivers in the said counties, within the time limited and restrained by the said act, shall permit the said fish to pass or go out of the said cuts, or dikes, or streams, into the main rivers again, and not by any wilful means to destroy them for sale or otherwise, under the like pains, penalties, forfeitures, and imprisonment, as afore mentioned.

5. And, That all owners and occupiers of corn, fulling, and paper mills, and other mills, upon any the waters or rivers in the said counties, shall constantly keep open one scuttle or small hatch of a foot square, in the waste-hatch, or water-course, in the direct stream, wherein no water wheel standeth, sufficient for the salmon to pass and repass freely up and down the said rivers in the said counties, from the 11th of November to the 31st of May in every year, during which season the old salmon and the young fry of the preceding year retire to the sea, and the breeding salmon come from the sea to spawn, and shall not make use of any nets, pots, racks, hawks, gins, or other devices whatsoever, to be placed in the said scuttle or small hatch of a foot square in the said waste-hatch, in or about the said mills respectively, during the said term, to kill or destroy, or take any salmon or salmon-kind, upon the like pains, penalties, forfeitures, and imprisonment, as aforesaid; and in case they

- shall lay any pots or nets to catch eels, after the 1st of January to the 10th of March in every year (which they may do) they shall set racks before them, to keep out of the said pots or nets the old salmon or keppers, which, during that season, are out of kind, and returning to the sea; and after the 10th of March to the 31st of May in every year, they shall lay no pot, net, or engine, but what shall be wide enough to let the fry of salmon pass through to the sea, or shall take or keep, or offer to sale any of the young fry, that during the seasons aforesaid are returning from the said rivers to the sea, upon the pains, penalties, forfeitures, and imprisonments, as aforesaid.

6. And, That no bouges, otherwise called sea trouts, shall be taken in any of the said rivers, creeks, or arms of the sea, in the counties before mentioned, after the 30th of June to the 11th of November every year, upon the like pains, penalties, forfeitures, and imprisonments, as aforesaid.

7. And whereas divers disorderly, idle, and mean persons, have and keep nets, angles, leaps, pitches and other engines for the taking and killing of fish out of the ponds, waters, rivers and fisheries in the said counties, to the damage of the owners thereof; be it therefore enacted, that no person or persons whatsoever shall have or keep any net, angle, leap, pitch, or other engine for taking of fish, other than as is pro-

provided for and allowed of by the statute 4 and 5 W. and Mary, intituled, *an act for the more easy discovery and conviction of such as shall destroy the game of this kingdom*, and the subsequent acts made in the third, fourth, and fifth years of William and Mary for the more easy conviction of such as shall destroy the game of this kingdom; none of which acts, or any part or matter therein contained, or in any other act relating to the preservation of the game of this kingdom is hereby intended or deemed to be repealed.

8. And, That if any person or persons shall sell, or expose to sale, any salmon, or salmon-kind in the said counties, from the 30th June, to the 11th November in every year, such person or persons shall for every salmon or salmon-kind so sold or exposed to sale, be subject to the pains, penalties, forfeitures, and imprisonments, as aforesaid.

9. And, That the forfeitures and penalties arising by conviction of any offender or offenders against this act, shall be levied by distress and sale of the offenders goods, by warrant under the hand and seal of the justice before whom the offender or offenders shall be convicted, rendering the overplus, if any be; and for want of distress, the offender or offenders shall be committed to the house or houses of correction in the said counties, as aforesaid.

10. Provided always, that this act shall extend only to the said county of Southampton, and the southern parts of Wiltshire.

Anno 5 Annæ Reginae. 1707. Cap. 14.

An act for the better preservation of the game.

1. Whereas several laws have already been enacted for the better preservation of the game, and by experience been found not sufficient to prevent destroying the game, by reason of the multitude of higlars and other chapmen, which give great encouragement to idle loose persons to neglect their lawful employments, to follow and destroy the same; for remedy whereof, and the more effectual preservation of the game, it is enacted, that all and every of the laws now in being for the better preservation of the game, shall continue, remain, and be in the same force, not hereby repealed and altered. See stat. 9 Ann, c. 25. and stat. 3 G. 1. c. 11.

2. And, That if any higlar, chapman, carrier, inn-keeper, victualler, or ale-house-keeper, shall have in his or their custody or possession any hare, pheasant, partridge, moor, heath-game, or grouse, or shall buy, sell, or offer to sell, any hare

hare, pheasant, partridge, moor, heath-game, or grouse, every such higlar, chapman, inn-keeper, victualler, alehouse-keeper, or carrier, (unless such game in the hands of such carrier be sent up by person or persons qualified to kill the game) shall upon every such offence be carried before some justice of the peace for the county, riding, city, or town corporate, or liberties where the said offence is committed; and upon view, or upon the oath of one or more credible witnesses, shall be convicted of the same; shall forfeit for every hare, pheasant, partridge, moor, heath-game, or grouse, the sum of five pounds, one half to the informer, and the other half to the poor of the parish where the offence was committed; the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of the justice or justices of the peace, before whom such offender or offenders shall be convicted, rendering the overplus (if any be) the charge of distraining being first deducted; and for want of distress, the offender or offenders to be committed to the house of correction for the first offence for the space of three months, without bail or mainprize, and for every such other offence, for the space of four months; provided that such conviction be made within three months after such offence committed: and that if any *certiorari* shall be allowed to remove any conviction made, or other proceedings of or concerning

ing any matter or thing in this act, into any of the courts at Westminster, upon any pretence whatsoever, unless the party or parties, against whom such conviction shall be made, shall, before the allowance of such *certiorari*, become bound to the person or persons prosecuting the same, in the sum of 50*l.* with such sufficient securities, as the justice or justices of the peace, before whom such offender shall be convicted, shall think fit, with condition to pay unto the prosecutors, within fourteen days after such conviction or *procedendo* granted, their full costs and charges, to be ascertained upon their oaths; and that in default thereof, it shall be lawful for the said justice or justices, or others, to proceed for the due execution of such conviction, in such manner as if no such *certiorari* had been awarded.

3. And for the better discovery of such higlar, chapman, carrier, inn-keeper, alehouse-keeper, and victualler, as shall offer to buy or sell any hare, pheasant, partridge, moor, heath-game, or grouse, be it further enacted, That any person that shall destroy, sell, or buy any hare, pheasant, moor, heath-game, or grouse, and shall within three months make discovery of any higlar, chapman, carrier, inn-keeper, alehouse-keeper, or victualler, that hath bought or sold, or offered to buy or sell, or had in their possession any hare, pheasant, partridge, moor, heath-game, or grouse, so as any one shall be convicted of such offence, in manner as
 afore-

aforesaid, such discoverer to be discharged of the pains and penalties hereby enacted for killing or selling such game, as aforesaid, shall receive the same benefit or advantage as any other informer shall be intitled to by virtue of this act, for such discovery and information.

4. And, That if any person or persons, not qualified by the laws of this realm so to do, shall keep or use any greyhounds, setting-dogs, hays, lurchers, tunnels, or any other engine to kill and destroy the game, and shall be thereof convicted upon the oath of one or two credible witnesses, by the justice or justices of the peace where such offence is committed, as aforesaid, the person or persons so convicted shall forfeit * 5*l*. one half to be paid to the informer, and the other half to the poor of the parish where the same was committed; the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of such justice or justices; and for want of such distress, the offender or offenders shall be sent to the house of correction for the space of three months for the first offence, and for every such other offence, four months; and that it shall and may be lawful to and for justices of the peace, in their respective counties, ridings, cities, towns corporate, or liberty, and the lords and ladies.

* See how regulated by stat. 2 G. 3. c. 19.

of his, her, their, or any of their respective manors, within the said manors, to take away any such hare, pheasant, partridge, moor, heath game, or grouse, or any other game, from any such higlar, chapman, inn-keeper, victualler, or carrier, or an other person or persons not qualified to kill the same, as shall be found in their custody or possession; and likewise to take away such dogs, nets, or other engines, which shall be in the power or custody of any person or persons not qualified by the laws to keep the same, to their own proper use, without being accountable to any person or persons for the same: And that it shall and may be lawful for any lord or lady of his or her respective lordship or manor, by writing under his or her hand and seal, to empower his or her game-keeper or game-keepers, upon his or her own lordship or manor, as aforesaid, to kill hare, pheasant, partridge, or any other game whatsoever; but if the said game-keeper shall, under colour or pretence of the said power and authority to kill or take the same for the use of such lord or lady, afterwards sell or dispose thereof to any person or persons whatsoever, without the consent or knowledge of the lord or lady of such manor or manors that hath given such power or authority, in manner, as aforesaid; and shall be thereof convicted upon the complaint of such lord or lady of any manor, and upon the oath of one or more credible witnesses before any one or more of her majesty's justices of the peace, as
afore-

aforesaid ; upon such conviction such game-keeper shall be committed to the house of correction for the space of three months, and there to be kept to hard labour : and this act shall be in force for three years, from the 1st of May, 1707, and from thence to the end of the next sessions of parliament, and no longer. Made perpetual by 9 Ann. c. 25.

5. And whereas the burning of heath, ling, and brakes, or fern, upon the forest of Sherwood in Nottingham, and in the parts thereunto adjacent, as it is frequently used by divers disorderly and dissolute persons, doth not only destroy the breed of game, but hath also very frequently been the occasion of burning, damaging, and destroying of great quantities of wood, timber, and fences within the said forest, and places thereunto adjacent, to the great damage and prejudice of the owners thereof ; it is further enacted, that if any person or persons shall set fire to any ling, heath, or brakes growing upon any part of the said forest, or on any other waste, common, or land within the said county of Nottingham, or shall cut any ling, heath, or brakes, in order to be burnt to ashes upon the ground, or shall burn the same to ashes upon the ground, in any part of the said forest, or in any waste, common, or land lying within the said county, without licence from the owner of the soil, where such offence shall be committed,

ted, shall forfeit to the owner of the soil where such offence shall be committed, 10s. and all the ashes which shall be so burnt; and every person and persons who shall buy fern-ashes of any such unlicensed person or persons within the said county, shall forfeit for every peck of such ashes, which shall be so bought, the sum of 10s. one moiety thereof to the poor of the parish where such offence shall be committed, and the other moiety thereof to such person or persons as shall give information of the said offence; and it shall be lawful for the keepers and officers of such parts of the said forest, and for the owners of the land or soil where any the said offences shall be committed, their servants and agents, to take away, for his and their own use, the scithes, rakes, and other instruments to be used for any the purposes aforesaid, of every person and persons whom they shall find so offending; and it shall be lawful for any one or more justices of the peace, upon complaint made to him or them against any person or persons for any the said offences, to send forth his or their warrant or warrants to bring the person or persons so complained of before him or them; and if the person or persons so complained of, shall be convicted of any of the said offences before such justice or justices, by the oath or oaths of one or more witness or witnesses, then and in such case the party so convicted shall, immediately after such conviction, pay such penal-

penalties and forfeitures, as are hereby before imposed for the said offences respectively, to such person and persons as the same penalties and forfeitures are hereby appointed to be paid; and in default thereof shall be committed by such justice or justices to the house of correction, there to be kept to hard labour for the space of one month, unless the said penalties and forfeitures shall be in the mean time paid. See stat. 28. G. 2. c. 19.

Anno 9 Annæ Reginae. 1711. Cap. 25.

An act for making the act of the 5 Ann. for the better preservation of the game, perpetual, and for making the same more effectual.

1. Whereas the stat. 5 Ann, intituled, *an act for the better preservation of the game*, will expire at the end of this present session of parliament, unless the same be continued. And whereas the said act hath been found to be an useful law for the preservation of the game of this kingdom, it is therefore enacted, that the said recited act, and all the clauses, matters, and things therein contained, shall stand in full force and virtue, and be continued, and deemed, and taken to be a perpetual law, subject nevertheless to the additions or alterations herein after contained; that is to say, whereas by the said recited act any lord or lady of a manor might

L

appoint

appoint several game-keepers in the same manor, and every one of the game-keepers so appointed might kill any game in the same manor; for the preventing therefore of the destruction of the game of this kingdom, which may happen by appointing several game-keepers in the same manor, with authority to kill game therein, it is further enacted, That no lord or lady of a manor shall make, constitute, or appoint, above one person to be a game-keeper within any one manor, with power or authority to kill or destroy the game thereof; and that the name of such person, so to be authorised to kill the game, shall, from time to time, be entered with the clerk of the peace for the time being, of the county, riding, or division, wherein such manor doth lie, such entry to be made and viewed without fee or reward, and a certificate thereof to be granted by the clerk of the peace, upon payment of 1s. for the same; and in case any other game-keeper, whose name shall not be so entered as aforesaid, who shall not be otherwise qualified by the laws of this kingdom to kill game, shall presume to kill any hare, pheasant, partridge, moor, heath-game, or grouse, or if any game-keeper, or game-keepers, or other person or persons whatsoever, not being qualified in his own right to kill game, shall sell, or expose to sale, any hare, pheasant, partridge, moor, heath-game, or grouse, the respective offender or offenders herein shall, for every offence,

offence, incur such forfeitures, pains, and penalties, as are inflicted by the said recited act upon higlars, carriers, inn-keepers, or victuallers, for buying or selling of game; such forfeitures to be recovered by such means, and in such manner and form, and within such time, and to such uses, as are prescribed by the said act; any thing in the said recited act, or in any other law or statute, to the contrary thereof in anywise notwithstanding.

2. And, That if any hare, pheasant, partridge, moor, heath-game, or grouse, shall be found in the shop, house, or possession of any person or persons whatsoever, not qualified in his own right to kill game, or be entitled thereto under some person so qualified, the same shall be adjudged, deemed, and taken to be an exposing thereof to sale, within the true intent and meaning of this and the said recited act.

3. And, That if any person or persons whatsoever shall take, kill, or destroy any hare, pheasant, partridge, moor, heath-game, or grouse, in the night-time, the person or persons so offending shall likewise, for every such offence, incur such forfeitures, pains, and penalties, as aforesaid, to be recovered likewise by such means, within such time, and to such uses, as aforesaid.

4. * And whereas very great numbers of wild fowl of several kinds, are destroyed by the pernicious practice of driving and taking

them with hayes, tunnels, and other nets, in the fens, lakes, and broad waters, where fowl resort in the moulting time, and that at the season of the year, when the fowl are sick and moulting their feathers, and the flesh unsavory and unwholsome, to the prejudice of those that buy them, and to the great damage and decay of the breed of wild fowl; it is therefore further enacted, That if any person or persons whatsoever, between the first of July, and the first of September, as they shall yearly happen, shall by hayes, tunnels, or other nets, drive and take away any wild duck, teal, widgeon, or any other fowl, commonly reputed water fowl, in any of the fens, lakes, broad waters, or other places of resort for wild fowl, in the moulting season, such person or persons, who shall so offend, and thereof shall be convicted before any one or more justices of the peace for the county where such offence shall be committed, by the oath of one or more credible witness, shall, for every wild duck, teal, or other water fowl, so taken as afore-said, forfeit and pay the sum of 5s. one moiety thereof to be paid to the informer, and the other moiety to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of the

• Altered by 10 G. 2. c. 32.

justice

justice and justices, before whom the offender shall be convicted, rendering the overplus, if any be, above the penalty and charge of distress; and for want of distress, the offender or offenders shall be committed to the house of correction for any time not exceeding one month, nor less than fourteen days, there to be whipt, and kept to hard labour; and the justice or justices of the peace, before whom such person or persons so offending shall be convicted, shall order such hayes, nets, or tunnels, that were used in driving and taking the said wild fowl, as aforesaid, to be seized and immediately destroyed, in the presence of such justice or justices.

Anno 9. Annæ Reginae, cap. 26.

An act for the better preservation and improvement of the fishery within the River Thames, and for regulating and governing the Company of Fishermen of the said river.

Whereas the preservation of the fishery of the river of Thames, and the good government of the company of fishermen of the said river, are not only highly necessary for furnishing persons, inhabiting within London and Westminster, and the parts adjacent, with good, wholesome, cheap, and seasonable fish, but likewise advantageous to the trade of this kingdom, in breeding up able bodied sea-faring men, and preventing frauds
 L 3 committed

committed in running of goods and merchandises, whereby the revenues of the crown have been much lessened; it is enacted, That it shall and may be lawful to and for the court of assistants of the said company, for the time being, or the major part of them present, to make such bye-laws and ordinances for the good rule and government of the said company, as they shall think fit, so as the same be always first approved of, or from time to time altered or amended by the court of the lord mayor and aldermen of the city of London, and likewise allowed and confirmed, according to the form and statute in that behalf made and provided; and that there shall be yearly and every year elected and chosen by the next court of lord mayor and aldermen, to be held after the said tenth day of June, out of the six wardens by the said company, for the time being, to be nominated by the said court of assistants, one fit person to be a master of the said art or mystery of fishermen; and also out of twelve assistants to be nominated, as aforesaid, six fit persons to be wardens of the said art or mystery (whereof the water Bailiff of the city of London, for the time being, shall be one) and in like manner out of sixty of the commonalty, to be nominated, as aforesaid, thirty fit persons to be assistants of the said company; which said master, wardens, and assistants, or any sixteen of them, together with three of the said wardens, shall be, and are hereby constituted the court of assistants of

of the said company for the time being, and shall meet and assemble together, from time to time, on the first Thursday in every calendar month in the year, in the hall of the said company, in order to form the said court of assistants, and keep the same for regulating and reforming abuses committed in the said fishery, and for the due ordering and governance of the said company; to the holding of which court the said water bailiff shall be always duly summoned to attend; and the said court of assistants, or the major part of them present, shall, from time to time, call before them all and every such person and persons as shall use to fish or drudge within the limits of the said fishery as common fishermen or drudgermen, and cause every such person and persons, being duly qualified, or having served on board the navy for the space of two years, to have his or their name or names entered and registered in a book or books to be kept by the said court of assistants for that purpose, together with his and their respective places of abode, and the name of every apprentice or servant belonging to him or them, in using the trade of fishing or drudging within the said limits; and shall likewise cause some mark of distinction, by figure or otherwise, to be placed on every boat, vessel, and craft, which shall be used in fishing or drudging within the limits aforesaid; which said figure or mark of distinction shall not be changed, altered,

or

or defaced, to the end, that from time to time, and at all times hereafter, every such person and persons, apprentice and servant, as shall offend, contrary to the meaning of this act, may the better be detected, and that her majesty, may the better be enabled to know what number of able-bodied seamen the said company can furnish for public service; and that every person and persons being duly summoned by the direction of the said court of assistants, to be and appear before them, in order to be entered and serve on board the navy, who shall, without lawful cause, refuse or neglect to appear, according to the tenor of such summons, shall be sent on board the navy, and be disabled from fishing on the said river of Thames for the space of two years.

And it is enacted, that no person or persons whatsoever shall, wilfully kill or expose to sale, any spawn, fry, or brood of fish, or spatt of oysters, or any unsizable, small or unwholsome fish, or catch, kill, or destroy any fish out of season, or expose such fish to sale, or wilfully or knowingly buy, harbour, receive or use as food for hogs, or otherwise, any such spawn, fry, brood of fish or spatt of oysters, unsizable, small, or unwholsome fish, or any fish caught out of season, on pain of being punished as herein after is mentioned: and that salmon fish, which are become very scarce by destroying great quantities of salmon, and salmon-kind
fish,

fish, betwixt the 24th August, and the 11th November in every year, when they are out of season, or spawning, may become very plentiful and common in the said fishery, as they were formerly, no person or persons whatsoever shall presume to fish for, or take and wilfully kill, hurt, or destroy any salmon or salmon-kind fish within the said limits, at any time or times betwixt the said 24th August, and the said 11th November, in any year, and that it shall and may be lawful for the said lord mayor, upon application to him by the said court of assistants, to order and direct any number of stakes to be driven and fixed in any place within the said river, betwixt the London mark stone above Staines bridge, and London bridge, as by him and them shall be thought most convenient for preserving the fry, spawn and brood of fish, so as the same be no ways prejudicial to the navigation of the said river, and that no person or persons whatsoever shall presume, without lawful authority, to remove, loosen, or pluck up the same, on pain of being punished as herein after is mentioned. See an act 2 G. 2. for improving the oyster fishery in the river Medway.

And to the intent the publick may be served with fish cheap, and at the first hand, and for a more speedy way to punish offenders, who daily regrate great quantities of unfizable and unseasonable, as also other fish, in and at the market Billingsgate; it
is

is therefore enacted, that no fish shall be sold more than once within the said market, or within 150 yards of Billingsgate dock, to which all sorts of fish are usually imported; nor shall any person or persons, other than free fishmongers, in their houses and shops, situate and being within the distance of the said 150 yards of the said dock, and not in the said market of Billingsgate aforesaid, and other than fishermen, or the first importers of, or persons bringing up such fish to the said market, their wives, apprentices, factors or servants, for the time being, actually hired for that purpose, presume to sell, or expose to sale any manner of fish whatsoever in and at the said market, or within 150 yards of the said dock, on pain of being punished as herein after is mentioned. See Stat. 33. G. 2. c. 27.

And it is enacted, that the said court of assistants shall yearly and every year, by even and equal portions, on the feast days of Easter and Michaelmas, pay or cause to be paid to the said water bailiff, or his assigns, the sum of thirty pounds, free from all taxes or other incumbrances, in lieu and satisfaction of such ancient fees as were due to him, and which will be diminished or taken away by virtue of this act, except the granting licences for taking fish in their several seasons, according to custom, the benefit whereof is hereby intended to be continued and saved unto the said water bailiff for the time being,

being, over and above the said sum of thirty pounds per annum,

And for the further preventing forestalling, regrating and ingrossing fish, at unreasonable hours, in the market of Billingsgate, it is further enacted, That no fish whatsoever shall be sold or exposed to sale, on board or on shore (within the limits of the said market, or within 150 yards of the said dock, as aforesaid) by any person or persons whatsoever, before the hours of three o'clock in the morning from Lady-day to Michaelmas, and before the hours of five o'clock in the morning from Michaelmas to Lady-day, and so annually; and that the proper officer doing the bell appointed for that purpose, at the time and place aforesaid, under the penalties to be inflicted by this act.

And it is further enacted, That the lord mayor and aldermen of the city of London, or any one of them, for all offences committed within the jurisdiction of the said lord mayor, as conservator of the said river of Thames, and the justices of the peace of the respective counties, or any one of them, for all offences committed in the said limits, and out of the jurisdiction of the said conservator, shall have full power, upon view, or upon complaint made to them, or any one of them, to examine, hear, and determine, by the oath of any person, or by confession of the party offending, all complaints and offences committed against the intent of this act; and upon conviction of
such

such offender, to impose a fine upon him or her, proportionable to the offence so committed, not exceeding the sum of ten pounds, nor less than the sum of five shillings, to be levied by distress, or otherwise, on such offender's goods and chattels, at the discretion of the said lord mayor, aldermen, or justices, or any one of them, unless such offender shall immediately pay such fine, or give good and sufficient security to such magistrate or magistrates before whom he or she shall be so convicted, to stand to and abide such order as shall be made by the court of conservancy, held by the said lord mayor, as conservator, as aforesaid, upon such conviction as shall be made by the said lord mayor and aldermen, or any one of them, or at the general quarter sessions, by the justices of the peace holding the same, upon any such conviction made before them, or any one of them, in case the offender shall think fit to appeal to the said court of conservancy, or to the said quarter sessions; and in case no distress or distresses can be found, the offender or offenders shall be sent to the house of correction, there to remain without bail or mainprize, and to be kept to hard labour for any time not exceeding two months; and that all and singular the forfeitures and penalties arising by this present act, for any offences contrary thereunto committed within the jurisdiction of the said conservator, shall be paid, the one moiety to the informer, the other moiety

moiety to the said lord mayor, as conservator of the said river of Thames; and that all the forfeitures and penalties arising by this present act, for any offences contrary thereunto, committed out of the jurisdiction of the said conservator, shall from time to time be paid, the one moiety to the poor of the parish where such offence shall be committed, and the other moiety to such person who shall prosecute the said offender.

Saving also to all courts and persons, all fines, forfeitures, penalties, amerciaments, and wreck of sea, which of right have been reserved and become due and payable to the said courts and persons respectively, for and in respect of the said fishery or drudging, or otherwise, and all rights, titles, estates, jurisdictions, privileges, franchises, or demands whatsoever, in as full and ample manner as the same were or have been before the making of this act.

Provided always, That this act shall not extend to prejudice or derogate from the rights, privileges, or authorities of the city of London, exercised by the lord mayor of the said city for the time being, as conservator of the said river of Thames and waters of Medway, or elsewhere, or any of the rights of the admiralties or vice admiralties of Kent or Essex, or the piscaries or fishings belonging or appertaining to the said city of London, or any other city or town corporate,

M

rate,

rate, or any lords of manors, proprietors, owners or occupiers of any rivers, creeks, streams, or fisheries adjacent to or within any part of the said limits, or to the rights of any other person or persons within the limits aforesaid.

Provided always, That nothing in this act shall extend to any fishermen or drudgermen, who now do or shall hereafter inhabit or dwell in any of the cinque ports, or their members, or in the city of Rochester, or towns or places of Strood, Chatham, Finsbury, Gillingham, Milton, Queenborough, Feverham, Whitstaple, or the places adjacent; but that such fishermen and drudgermen shall and may use and exercise their trades of fishing and drudging, and selling, in as full and ample a manner as they have heretofore lawfully done, to all intents and purposes, as if this act had never been made.

And that this act shall be deemed and taken to be a public act, of which all judges, justices, and other persons are to take notice; and in case any action, bill, plaint, suit, or information, shall be commenced or prosecuted against any person or persons for what he or they shall do in pursuance or by virtue of this act, such person or persons shall and may plead the general issue, and give this act and the special matter in evidence; and the defendant or defendants shall (in case the plaintiff be nonsuited, or discontinue his action, or that
a judge-

a judgment upon demurrer, or a verdict pass against the plaintiff) recover his or their full costs of suit, for which the said defendant or defendants shall have the like remedy as in such cases where costs by the laws of this realm are given to defendants.

This act not to prejudice Margaret Cæge.

Anno 1 Georgii 1. Regis. 1714. cap. 18.

An act for the better preventing fresh fish taken by foreigners being imported into this kingdom; and for the preservation of the fry of fish; and for the giving leave to import lobsters and turbets in foreign bottoms; and for the better preservation of salmon within several rivers in that part of this kingdom called England.

1: Whereas notwithstanding the many good laws made for the preservation and improvement of the fishery in England, particularly the statute 15 Charles 2. intituled, An act for the encouragement of trade; and one other act made in the 18 Car. 2. intituled, An act against importing cattle from Ireland, and other parts beyond the seas, and fish taken by foreigners; many evasions have of late years been invented and practised, whereby that useful design has been very much obstructed, and more especially

M 2

, by

and an half at least, from knot to knot, or which hath any false or double bottom, cod, or pouch, or shall put any net or nets, though of legal size or mesh, upon or behind the others, in order to catch and destroy the small fish which would have passed through any single net of three inches and an half mesh, all and every such person and persons so offending, shall forfeit all and singular such net or nets, so used contrary to the true intent and meaning hereof, and also for every such offence 20l. to be recovered and levied in such manner and form as the penalty above inflicted upon the master of any vessel, wherein fish shall be imported contrary to this act, is above directed to be recovered and levied; and in default of payment of the said 20l. or of sufficient distress, the offender to be imprisoned in like manner during the space of twelve months.

5. And that all penalties and forfeitures mentioned in this act, except nets of illegal or false bottoms, cods, or pouches, as aforesaid (all necessary charges for the recovery thereof being first deducted) shall be distributed and disposed of in manner following, (that is to say) one moiety thereof to the informer, and the other moiety thereof to the poor of the parish where such offence shall be committed.

6. And that where any illegal nets of less mesh or moke than three inches and an half
at

at least from knot to knot, or of false or double bottom, cod, or pouch, shall be proved, as aforesaid, to have been forfeited, such net or nets shall, by warrant of such justice or justices, be publickly burnt.

7. And for the further preservation of the said fry of fish, it is enacted, That if any person or persons shall, at any time, bring to shore, in England, sell, offer, or expose to sale, or shall exchange for any other goods, matter, or thing, any unfizable fish, that is to say, brett, turbot, brill, or pearl, codlin, whiting, mullet, bass, plaice, soles, or flounders, which shall not be of the several lengths or sizes following, from the eyes to the utmost extent of the tail, (viz.) every brett or turbot, 16 inches; every brill or pearl, 14 inches; every codlin, 12 inches; every whiting, 6 inches; every bass and mullet, 12 inches; every sole, 8 inches; every plaice or dab, 8 inches; and every flounder, seven inches; all and every person and persons so offending, shall, for every such offence, forfeit all and every such unfizable fish so brought on shore, sold, offered, or exposed to sale, or exchanged, as aforesaid, to the poor of the parish or place where such offence shall be committed, and also shall, for every such offence, forfeit and pay 20s. one moiety thereof to the informer, and the other moiety thereof to the poor of the parish or place where the offence shall be committed, and to be levied and recovered

as

as other penalties by this act inflicted or directed to be levied and recovered; and in default of payment of the said forfeiture, or of sufficient distress for satisfaction thereof, the offender shall, by warrant of one or more justice or justices of the peace, be sent to the next house or houses of correction, or other common gaol or prison of any county, city, town, or place, where such offence shall be committed, there to be severely whipt, and kept to hard labour for 6 days, and not longer than 14 days.

8. Provided, that where any person shall suffer imprisonment pursuant to this act, for any offence contrary hereunto; in default of payment of, or sufficient distress for any penalty hereby imposed, such person shall not be liable afterwards to pay such penalty.

9. Provided also, that no person shall suffer any punishment for any offence committed against this act, unless the prosecution for the same be commenced within one month after such offence committed.

10. And whereas by the stat. 10. and 11. W. 3. c. 24, intituled, *an act for making Billingsgate a free market for sale of fish*, the importation of lobsters and turbets in foreign vessels is prohibited: and whereas the said prohibition has made lobsters and turbets much dearer than they were before the passing the said act: for remedy whereof, and for the better supplying this kingdom with lobsters and turbets at reasonable rates, it
is

is enacted, that it shall and may be lawful to and for any person whatsoever, as well foreigners as British, freely to import, bring into, and sell in the kingdom of Great Britain, in any ship or vessel whatsoever, any quantity of lobsters or turbets, whether they be of foreign or British catching, in the same manner they might have done before the said stat. 10 and 11 W. 3. any thing in the said act, or any other act since made, or usage, to the contrary thereof notwithstanding.

11. And whereas in the stat. 4 and 5 Ann c. 21. an act of parliament passed, intituled, *an act for the increase and better preservation of salmon, and other fish in the rivers within the counties of Southampton and Wilts*, there is contained a clause, whereby is enacted, that no person or persons (not being duly qualified) should there after kill, destroy, or wilfully hurt any salmon or salmon kind, or any other fish; and that neither they, nor any other person or persons whatsoever, should or might, at any time or times, take, kill, or destroy any salmon, salmon-peal, or salmon-kind, by hawks, racks, gins, nets, angles, or other devices whatsoever, until after the 11th of November in every year, or offer to sale any of the said fish so taken, under the pains, penalties, forfeitures and imprisonments in the said act mentioned; it is enacted, that the said clause, so far as the same doth and may concern the respective owners and proprietors of the fishery and
fishing

fishing in the respective rivers, in the said act mentioned, and every other person and persons intitled to fish in the same, and every of them, and his and their respective servants and agents, and every of them, shall be and is hereby repealed.

12. And it is enacted, that it shall and may be lawful for such owners, proprietors, and persons, and his and their servants and agents, and every, or any of them, at any time or times hereafter, from the 11th November, 1715, until the 1st of August in every year, to take, kill, or destroy any salmon, salmon-peal, or salmon-kind, or offer to sale any of the said fish so taken between the times aforesaid,

13, Provided, that no such owner, proprietor, or person aforesaid, or any of his or their servants or agents, shall or may, at any time or times after the 1st of August, 1716, and between that day and the 12th of November then next following, or at any time or times then after, between the 1st of August, and the 12th of November in any year, take, kill, or destroy, or wilfully hurt any salmon, salmon-peal, or salmon-kind, by hawks, racks, gins, nets, angles, or other devices whatsoever, or offer to sale any of the said fish so taken, under the like pains, penalties, forfeitures, and imprisonments, as are mentioned and contained in the said recited act.

14. And whereas the several acts of parliament heretofore made, for the preservation
of

of fishing within the rivers of this realm, have hitherto proved ineffectual in respect to the rivers Severn, Dee, Wye, Teame, Were, Tees, Ribble, Mersey, Dun, Air, Ouze, Swaile, Calder, Wharf, Eure, Darwent, and Trent, for want of a due encouragement to be given to such persons who could discover the many illegal practices and abuses done therein, and by reason of the dilatoriness and expensiveness of the suits and proceedings directed by the said acts for punishing such abuses: Wherefore for remedy thereof, and for the better securing the spawn, fry, and young breed of salmon, in the said rivers, it is further enacted, That if any person or persons whatsoever shall, at any time hereafter, lay or draw any kind of nets, engines, or devices, or wilfully do or commit, or cause to be done or committed, any other act whatsoever in the said rivers, or in any of them, whereby the spawn, or small fry of salmon therein, or any kepper, or shedder-salmons, or any salmon not being in length eighteen inches or more, from the eye to the extent of the middle of the tail, shall be taken, and killed or destroyed, or shall hereafter make, erect, or set any bank, dam, hedge, or flank, net or nets, cross the said rivers, or any part thereof, whereby the salmon therein may be taken, or hindered from passing or going up the said rivers to spawn, or shall at any time hereafter, between the last day of July, and the 12th of November for ever, by or with any net, device,

vice, engine, ways or means whatsoever, take, kill, destroy, or wilfully hurt any salmon of any kind or size whatsoever in the said rivers, or shall at any time after the said 12th of November fish there for salmon, with any other net or nets than what is or are allowed of by the stat. 1 Eliz. c. 17. intituled, An act for the preservation of spawn and fry of fish; and by the stat. 30 Car. 2. c. 9. intituled, An act for the preservation of the fishing in the river Severn; every person so offending in any of the said cases, who shall be convicted thereof before any justice or justices of the peace of the county wherein the said offence shall be committed, either upon view of such justice or justices, by confession of such offender, or by one or more credible witness or witnesses upon oath (which oath every such justice of peace is hereby impowered to administer) shall forfeit the sum of 5l. for every such offence, besides the fish so taken, and the nets, engines, or devices, used in doing or committing the same; one moiety of the said sum to be paid to the informer or informers, and the other moiety thereof to the poor of the parish where the said offence shall be committed; to be levied by distress and sale of the said offender's goods and chattels, by warrant under the hand and seal of the justice or justices of peace, before whom he shall be convicted as aforesaid, rendering the overplus, if any be, over and above the charges of the distress, to the person so distressed;

trained; and for want of such distress the offender shall be committed to the house of correction, or other county gaol or prison, for any time not exceeding three months, nor less than one month, there to be kept to hard labour, and suffer such other corporal punishment, as the said justice or justices, upon consideration of the circumstances of such offence, shall think fit; and the said justice or justices of the peace, before whom the person so offending shall be convicted, shall order such nets, engines, and devices, made use of in taking such fish, to be seized, and immediately cut in pieces, or otherwise destroyed in his or their presence, and shall also cause such banks, dams, hedges, or stanks, made or erected cross the said river, to be demolished and removed at the charges of such offender; such charges, if not paid down on conviction, to be levied in the same manner as the said sum of 5*l.* is appointed to be levied.

15. And whereas several fishmongers of London, and other cities and towns, by themselves, or their agents, frequently buy, and contract with the fishermen using the said rivers of Severn, Dee, Wye, Teame, Were, Tees, Ribble, Mersey, Dun, Ayr, Ouze, Swaile, Calder, Wharf, Euse, Darwent, and Trent, or others employed by them, for great quantities of salmon to be taken in the said rivers, which gives great encouragement to the taking salmon there of unsizeable lengths, and at unreasonable

N

times;

times; it is therefore enacted, That no such salmon shall be sent to London to such fishmongers, or their agents, that shall weigh less than six pounds each fish; and every person buying, selling, or sending any such salmon, of less weight than six pounds, who shall be convicted thereof in manner aforesaid, shall forfeit 5*l.* for every such offence, beside the fish so to be bought and sold; one moiety of the said sum and fish to be paid and distributed to the informer or informers, and the other moiety thereof to the poor of the parish where such offence shall be committed; the said sum, if not paid upon conviction, to be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the justice or justices of peace, before whom he shall be convicted, as aforesaid, rendering the overplus, if any be, over and above the charges of such distress, to the owner; and in default of sufficient distress, the offender shall be committed by such justice or justices to the house of correction, or other county gaol or prison, there to be kept to hard labour for the space of three months, unless the said forfeiture shall be in the mean time paid.

16. Provided, That where any offender in the said rivers, or in any of them, shall be punished by force of this act, he shall not be prosecuted, nor incur the penalty of any other law or statute for the same offence.

17. Pro-

17. Provided also, That all persons who shall think themselves aggrieved by any judgment of any justice or justices of the peace, in any of the cases aforesaid, may appeal to the justices of the peace of the county, city, or place, where such judgment shall be given, at their next general quarter sessions, who are hereby impowered to hear and finally determine the same.

18. Provided that this act, shall not extend, to any ancient weirs or locks upon any rivers; but that it shall and may be lawful for the proprietors or owners thereof to repair, maintain, rebuild, remove, or take down, any of the said weirs or locks, as they might have done in case this act had not been made.

Anno 3 Georgii I. Regis 1717. chap. 11.

An act to explain and amend several laws therein mentioned, for the better preservation of the game.

1. Whereas by the stat. 5 Ann c. 14. intituled, an act for the better preservation of the game, it is enacted, that it shall and may be lawful for any lord or lady of his or her respective lordship or manor, by writing under his or her hand and seal, to impower his or her game-keeper or game-keepers, upon his or her own lordship or manor, to kill hare, pheasant, partridge, or any other game whatsoever; which power of appointing several

game-keepers in the same manor, with power to kill game, was found by experience to tend very much to the destruction of the game of this kingdom: for the preventing whereof, by the stat. 9 Ann c. 25. intituled, an act for making the act of the fifth year of her majesty's reign, for the better preservation of the game perpetual, and for making the same more effectual, it was enacted, that no lord or lady of any manor shall make, constitute, or appoint, above one person to be a game-keeper within any one manor, with power or authority to kill or destroy the game thereof; and that the name of such person, so to be authorised to kill the game, shall from time to time be entered with the clerk of the peace of the county, riding, or division, wherein such manor does lie; which power of appointing a game-keeper so to be entered, as aforesaid, was manifestly designed to no other intent or purpose whatsoever, but that any lord or lady might appoint such person as he or she should think proper to kill the game upon his or her own lordship or manor, for the sole and proper use of the said lord or lady, such game-keeper being expressly restrained by the said first recited act from selling or disposing of any game to any person or persons whatsoever, without the consent or knowledge of the said lord or lady of such manor or manors that had given such power and authority, as aforesaid: and whereas under colour and pretence of the said power
and

and authority to kill or take game for the use of the lords or ladies of any manor, it is become usual and frequent, in several parts of the kingdom, for lords and ladies of manors to grant powers and deputations to the farmers, tenants, and occupiers of the lands and estates lying within the precincts of their respective manors, to be game-keepers, with power to kill and destroy the game; which practice is a very great abuse of the powers intended by the said acts to be granted, and manifestly tends very much to the destruction of the game of this kingdom: for remedy whereof it is enacted, that no lord or lady of any manor shall make, constitute, or appoint any person to be a game-keeper, with power and authority to take and kill hare, pheasant, partridge, or any other game whatsoever, unless such person be qualified by the laws of this realm so to do, or unless such person be truly and properly a servant to the said lord or lady, or such person be immediately employed and appointed to take and kill the game for the sole use or benefit of the said lord or lady, and not otherwise; and that no lord or lady of any manor shall authorise or qualify any person or persons whatsoever, not being qualified by the laws of this realm so to do, to take or kill any hare, pheasant, partridge, or other game whatsoever, or to keep or use any grey-hound, setting-dogs, hays, lurchers, guns, tunnels, or other engine, to kill and destroy the game; and that any person

or persons whatsoever, not being qualified by the laws so to do, or not being truly or properly a servant of any lord or lady of a manor, or not immediately employed and appointed to take and kill the game for the sole use or immediate benefit of the said lord or lady, who, under colour, or pretence of any power or authority, deputation, or qualification to him granted by any lord or lady of a manor, shall take or kill any hare, pheasant, partridge, or other game whatsoever, or shall keep or use any grey-hounds, setting-dogs, hays, lurchers, guns, tunnels, or any other engine, to kill and destroy the game, being thereof legally convicted, shall, for every such offence, incur such forfeitures, pains, and penalties, as are appointed to be inflicted by the said recited acts of 5 and 9 Ann, such forfeitures to be recovered by such means, and in such manner and form, and within such time, and to such uses, as are prescribed by the said recited acts; any thing in the said acts, or in any other law or statute, to the contrary thereof in any wise notwithstanding,

2. And be it further enacted, that the said recited acts of 5 and 9 Ann, and all other laws now in force for the better preservation of the game, and all matters, powers, and things therein contained (not hereby altered and repealed) shall continue, remain, and be in full force.

Anno 5 Georgii I. Regis, 1719, c. 15.

An act for making more effectual an act of the third and fourth years of the reign of King William and Queen Mary, intituled, An act for the more effectual discovery and punishment of deer-stealers.

This statute is repealed by the statute, 16 G. 3. c. 30.

Anno 5 Georgii I. Regis, 1719. c. 28.

An act for the further punishment of such persons as shall unlawfully kill or destroy deer in parks, paddocks, or other inclosed grounds.

Whereas in defiance of the laws already in being, several disorderly and riotous persons have of late in great numbers, with armed force, entered parks, and other inclosed grounds where deer are kept, whereby bloodshed and murder hath frequently happened, and greater mischiefs may ensue: for the preventing and punishment of which offences, it is enacted, That if any person or persons shall enter into any park, paddock, or other inclosed ground where deer are usually kept, and wilfully wound or kill any red or fallow deer there, without the consent of the owner or owners of such park, paddock, or inclosed ground, or of the person or persons entrusted with the care or custody of such park, paddock, or inclosed ground, or shall be aiding or

or assisting in the committing of any such offence, and being indicted for any such offence before any judge or justices of gaol-delivery for the county wherein such park, paddock, or inclosed ground shall lie, and shall, upon such indictment be by verdict or his own confession convicted of any such offence, the person or persons so convicted, as aforesaid, shall be sent, as soon as conveniently may be, to some of his majesty's plantations in America, for the space of seven years; and the court before whom such offender or offenders shall be convicted, or any subsequent court held at the same place, with like authority as the former, shall have power to convey, transfer, and make over such offenders, by order of court, to the use of any person or persons who shall contract for the performance of such transportation.

2. Provided, That nothing herein contained shall repeal, alter, or make void, any former law or statute now in being, made or intended for the punishment of deer-stealers: and, that where any offender shall be punished by force of this act, and according to the true intent and meaning thereof, he shall not be prosecuted nor incur any penalty for the same offence by force of any other law or statute whatsoever.

Anna

Anno octavo Georgii I. c. 19. 1722.

An act for the better recovery of the penalties inflicted upon persons who destroy the game.

For rendering more effectual the laws now in being for the better preservation of the game, it is enacted, That whosoever any person shall, for any offence to be hereafter committed against any law now in being for the better preservation of the game, be liable or subject to pay any pecuniary penalty or sum of money, upon conviction before any justice or justices of the peace, it shall and may be lawful for any other person whatsoever, either to proceed to recover the said penalty, by information and conviction before a justice or justices of the peace, in such manner as is in such law contained, or to sue for the same by action of debt, or on the case, bill, plaint, or information, in any of his majesty's courts of record, wherein no essoign, protection, wager of law, or more than one imparlance shall be allowed, and wherein the plaintiff, if he recovers, shall likewise have his double costs.

Provided, That all suits and actions to be brought by force of this act, shall be brought before the end of the next term after the offence committed; and that no offender against any of the laws now in being for the better preservation of the game, shall be prosecuted for the same offence, both by the way prescribed by this law, and by the way pre-

prescribed by any of the said former laws; and that in case of any second prosecution, the person so doubly prosecuted may plead in his defence the former prosecution pending, or the conviction or judgment thereupon had.

Anno 9 Georgii I. Regis 1723, c. 22.

An act for the more effectual punishing wicked and evil disposed persons going armed in disguise, and doing injuries and violences to the persons and properties of his Majesty's subjects, and for the more speedy bringing the offenders to justice.

1. Whereas several ill designing and disorderly persons have of late associated themselves under the name of Blacks, and entered into confederacies to support and assist one another in stealing and destroying of deer; robbing of warrens and fish-ponds, cutting down plantations of trees, and other illegal practices, and have, in great numbers, armed with swords, fire-arms, and other offensive weapons, several of them with their faces blacked, or in disguised habits, unlawfully hunted in forests belonging to his majesty, and in the parks of divers of his majesty's subjects, and destroyed, killed, and carried away the deer, robbed warrens, rivers and fish-ponds, and cut down plantations of trees; and have likewise solicited several of his majesty's subjects, with promises of money, or other rewards, to join with them,
and

and have sent letters, in fictitious names, to several persons, demanding venison, and money, and threatening some great violence, if such their unlawful demands should be refused, or if they should be interrupted in, or prosecuted for such thir wicked practices, and have actually done great damage to several persons, who have either refused to comply with such demands, or have endeavoured to bring them to justice, to the great terror of his majesty's peaceable subjects: for the preventing which wicked and unlawful practices, it is enacted, That if any person or persons, being armed with swords, fire-arms, or other offensive weapons, and having his or their faces blacked, or being otherwise disguised, shall appear in any forest, chase, park, paddock, or grounds inclosed with any wall, pale, or other fence, wherein any deer have been or shall be usually kept, or in any warren or place where hares or conies have been or shall be usually kept, or in any high road, open heath, common, or down; or shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any red or fallow deer, or unlawfully rob any warren or place where conies or hares are usually kept; or shall unlawfully steal or take away any fish out of any river or pond; or if any person or persons shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any red or fallow deer, fed or kept in any places in any of his majesty's forests or chases, which are or shall be inclosed

closed with pales, rails, or other fences, or in any park, paddock, or grounds inclosed, where deer have been or shall be usually kept; or shall unlawfully and maliciously break down the head or mound of any fish-pond, whereby the fish shall be lost or destroyed, or shall unlawfully and maliciously kill, maim, or wound any cattle, or cut down, or otherwise destroy, any trees planted in any avenue, or growing in any garden, orchard, or plantation, for ornament, shelter, or profit; or shall set fire to any house, barn, or out-house, or to any hovel, cock, mow, or stack of corn, straw, hay, or wood; or shall wilfully and maliciously shoot at any person in any dwelling-house, or other place; or shall knowingly send any letter, without any name subscribed thereto, or signed with a fictitious name, demanding money, venison, or other valuable thing; or shall forcibly rescue any person, being lawfully in custody of any officer, or other person, for any of the offences before mentioned; or if any person or persons shall, by gift or promise of money, or other reward, procure any of his majesty's subjects to join him or them in any such unlawful act, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony without benefit of clergy.

2. And whereas, notwithstanding the laws now in force against the illegal practices
above

above mentioned, and his majesty's royal proclamation of the 2d of February, 1722, notifying the same, many wicked and evil disposed persons have, in open defiance thereof, been guilty of several of the offences before mentioned, to the great disturbance of the public peace, and damage of divers of his majesty's good subjects; it is enacted, That all and every person and persons, who since the 2d day of February, 1722, have committed or been guilty of any of the offences aforesaid, who shall not surrender him, her, or themselves, before the 24th day of July, 1723, to any of the justices of his majesty's court of king's bench, or to any one of his majesty's justices of the peace, in and for the county where he, she, or they did commit such offence or offences, and voluntarily make a full confession thereof to such justice, and a true discovery upon his, her, or their oath or oaths, of the persons who were his, her, or their accomplices in any of the said offences, by giving a true account of their names, occupations, and places of abode, and to the best of his, her, or their knowledge or belief, discover where they may be found, in order to be brought to justice, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy.

3. Provided nevertheless, That all and every person and persons, who have been
O guilty

guilty of any of the offences aforesaid, and shall not be in lawful custody for such offence on the said first day of June, and shall surrender him, her, or themselves, on or before the said 24th of July, as aforesaid, and shall make such confession and discovery, as aforesaid, shall by virtue of this act be pardoned, acquitted, and discharged of and from the offences so by him, her, or them confessed, as aforesaid; any thing herein contained to the contrary in any wise notwithstanding.

4. And for the more easy and speedy bringing the offenders against this act to justice, it is enacted, That if any person or persons shall be charged with being guilty of any of the offences aforesaid, before any two or more of his majesty's justices of the peace of the county where such offence or offences were or shall be committed, by information of one or more credible person or persons upon oath, by him or them to be subscribed, such justices before whom such information shall be made, as aforesaid, shall forthwith certify, under their hands and seals, and return such information to one of the principal secretaries of state, who is hereby required to lay the same, as soon as conveniently may be, before his majesty, in his or their privy council, whereupon it shall and may be lawful for his majesty to make his or their order in his or their said privy council, thereby requiring and com-

commanding such offender or offenders to surrender him or themselves, within the space of forty days, to any of his majesty's justices of the court of king's bench, or to any one of his majesty's justices of the peace, to the end that he or they may be forthcoming to answer the offence or offences wherewith he or they shall so stand charged, according to due course of law; which order shall be printed and published in the next London Gazette, and shall be forthwith transmittted to the sheriff of the county where the offence shall be committed, and shall within six days after the receipt thereof be proclaimed by him, or his officers, between the hours of ten in the morning and two in the afternoon, in the market-places, upon the respective market-days, of two market-towns in the same county, near the place where such offence shall have been committed; and a true copy of such order shall be affixed upon some public place in such market-towns; and in case such offender or offenders shall not surrender him or themselves, pursuant to such order of his majesty, his heirs, or successors, to be made in council, as aforesaid, he or they so neglecting or refusing to surrender him or themselves, as aforesaid, shall, from the day appointed for his or their surrender, as aforesaid, be adjudged, deemed, and taken to be convicted and attainted of felony, and shall suffer pains of death as in case of a person convicted and attainted

by verdict and judgment of felony, without benefit of clergy; and that it shall be lawful to and for the court of king's bench, or the justices of oyer and terminer, or general gaol delivery for the county, where the offence is sworn in such information to have been committed, upon producing to them such order in council, under the seal of the said council, to award execution against such offender and offenders, in such manner as if he or they had been convicted and attainted in the said court of king's bench, or before such justices of oyer and terminer, or general gaol delivery respectively.

5. And it is enacted, That all and every person and persons, who shall, after the time appointed, as aforesaid, for the surrender of any person or persons, so charged upon oath with any of the offences aforesaid, be expired, conceal, aid, abet, or succour, such person or persons, knowing him or them to have been so charged, as aforesaid, and to have been required to surrender him or themselves, by such order or orders, as aforesaid, being lawfully convicted thereof, shall be guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy.

6. Provided nevertheless, That nothing herein contained shall be construed to prevent or hinder any judge, justice of the peace, magistrate, officer, or minister of justice whatsoever, from taking, apprehending, and

and securing such offender or offenders, against whom such information shall be given, and for requiring whose surrender such order in council shall be made, as aforesaid, by the ordinary course of law; and in case such offender or offenders, against whom such information, and for requiring whose surrender such order in council shall be made, as aforesaid, shall be taken and secured, in order to be brought to justice before the time shall be expired, within which he or they shall be required to surrender him or themselves, by such order in council, as aforesaid, that then in such case no further proceedings shall be had upon such order made in council against him or them so taken and secured, as aforesaid, but he or they shall be brought to trial by due course of law; any thing herein before contained to the contrary in any wise notwithstanding.

7. 8. 9. 10. Various directions concerning offenders setting fire to houses, killing and maiming cattle, &c.

11. And for the better and more effectual discovery of the offenders above mentioned, and bringing them to justice, it is enacted, that it shall and may be lawful to and for any justice of the peace, to issue his warrant to any constable, headborough, or other peace officer, thereby authorizing such constable, headborough, or other peace officer, to enter into any house, in order to search for venison stolen or unlawfully taken, con-

trary to the several statutes against deer-stealers, in such manner; as by the laws of this realm, such justice of the peace may issue his warrant to search for stolen goods.

12. And that if any person or persons shall apprehend, or cause to be convicted, any of the offenders above mentioned, and shall be killed or wounded, so as to lose an eye, or the use of any limb, in apprehending or securing, or endeavouring to apprehend or secure any of the offenders above mentioned, upon proof thereof made at the general quarter sessions of the peace for the county, liberty, division, or place, where the offence was or shall be committed, or the party killed, or receive such wound by the person or persons so apprehending, and causing the said offender to be convicted, or the person or persons so wounded, or the executors or administrators of the party killed, the justices of the said sessions shall give a certificate thereof to such person or persons so wounded, or to the executors or administrators of the person or persons so killed, by which he or they shall be intitled to receive of the sheriff of the said county the sum of fifty pounds, to be allowed the said sheriff in passing his accounts in the exchequer; which sum of fifty pounds the said sheriff is hereby required to pay within 30 days from the day on which the said certificate shall be produced and shewn to him, under the penalty of forfeiting 10l. to the said person or persons to whom such certificate is given; for which

which said sum of 10l. as well as the said 50l. such person may and is hereby authorized to bring an action upon the case against such sheriff, as for money had and received to his or their use.

13. And whereas the shortness of the time within which prosecutions for offences against the statute 3d and 4th of William and Mary, intituled, An act for the more effectual discovery and punishment of deer stealers, are limited to be commenced, has been a great encouragement to offenders; it is therefore enacted, That any prosecution for any offence against the said statute shall or may be commenced within three years, from the time of the offence committed, but not after.

14. And for the better and more impartial trial of any indictment or information, which shall be found commenced or prosecuted for any the offences committed against this act, it is enacted, that every offence, that shall be done or committed contrary to this act, shall and may be enquired of, examined, tried, and determined in any county within that part of the kingdom of Great Britain called England, in such manner and form, as if the fact had been therein committed: provided, that no attainder for any of the offences made felony by virtue of this act, shall make or work any corruption of blood, loss of dower, or forfeiture of lands or tenements, goods or chattels.

15. And that this act shall be openly read
at

at every quarter sessions, and at every leet or law day.

16. And that this act shall continue in force from the 1st of June, 1723, for the space of three years, and from thence to the end of the then next session of parliament, and no longer.

17. And that if any venison, or skin of any deer, shall be found in the custody of any person or persons, and it shall appear that such person or persons bought such venison or skin of any one, who might be justly suspected to have unlawfully come by the same, and does not produce the party of whom he bought it, or prove upon oath the name and place of abode of such party, that then the person or persons who bought the same, shall be convicted of such offence, by any one or more justice or justices of the peace, and shall be subject to the penalties inflicted for killing a deer, in and by the statute 3 and 4 Will. and Mary, intituled, An act for the more effectual discovery and punishment of deer stealers. Continued by 12 Geo. c. 30. and further continued by 24 Geo. 2. c. 57.

Anno secundo Geo. II. Regis.

An act for regulating, well ordering, governing and improving the oyster fishery in the river Medway, and waters thereof, under the authority of the mayor and citizens of the city of Rochester, in the county of Kent.

This act being local, is omitted here.

Anno

Anno sexto Geo. II. Regis, 1733, c. 37.

This act continues the 9 G. 1. c. 22, to the 1 Sept. 1736.

Anno decimo Geo. II. Regis, c. 32.

An act [among other things] for more effectually securing the breed of wild fowl.

So much of this act as relates to deer is repealed by the stat. 16 G. 3. c. 30.

10. And whereas by the stat. 9 Ann. intituled, An act for making an act of 5 Ann. for the better preservation of the game, perpetual, and for making the same more effectual, it is enacted, that if any person, between the first day of July and first day of September, in any year, shall, by hays, tunnels, or other nets, drive and take any wild duck, teal, widgeon, or any other water fowl, in any places of resort for wild fowl, in the moulting season, the offender being convicted thereof before one justice of the peace where the offence shall be committed, and by the oath of one credible witness, shall forfeit 5s. for every such fowl so taken, one moiety to the informer, the other to the poor of the parish where the offence was done, to be levied by a warrant of the justice of the peace before whom the offender was convicted, by the distress and sale of his goods, and for want of distress to be com-

committed to the house of correction for any time not exceeding one month, nor less than fourteen days, there to be whipt and kept to hard labour; and the justice of the peace shall cause such hays and nets to be seized and immediately destroyed in his presence: And whereas the said act has been found by experience to be ineffectual, by reason that the wild fowl begin to moult before the first of July, and have not done moulting by the first of September, so that great numbers of wild fowl are yearly destroyed, contrary to the true intent and meaning of the said act; therefore for remedy thereof, it is enacted, That if any person shall, in any year between the first day of June, and the first day of October, by hay, tunnels, or other nets, drive and take any wild duck, teal, widgeon, or any other water fowl, in any marshes, fens, or other places of resort for wild fowl, and shall be thereof convicted in such manner, as in the said act 9 Ann. is prescribed, he shall be liable to the same penalties, to be levied in like manner, as by virtue of the said act he would be liable to, if such offence was committed between the first day of July, and the first day of September, and for want of such distress be committed to the house of correction, and there punished, as by the said act is directed.

Anno

Anno viceffimo fecundo Geo. II. Regis, c. 49.

*An act for making a free market for the fale of
fish in the city of Westminster; and for pre-
venting the forestalling and monopolizing of
fish; and for allowing the fale of fish, under
the dimensions mentioned in a clause contain-
ed in the stat. 1 G. 1. in case the same are
taken with a hook.*

21. And whereas by the stat. 1 G. 1. en-
titled, An act for the better preventing
fresh fish taken by foreigners, &c. it is en-
acted, That no bret, turbet, bril, or pearl,
codlin, whiting, mullet, bass, place, soles,
or flounders, which shall not be of the se-
veral lengths or sizes therein described, shall
be sold, offered, or exposed to sale, or ex-
changed for any other goods, in that part
of Great Britain called England: and where-
as severall of the said fish are taken with a
hook, and, though thrown again into the
sea, cannot be preserved alive; it is enacted,
That fish under such dimensions, as are pro-
hibited by the said recited clause, may be
exposed to sale, or exchanged for any other
goods, provided such fish are taken with a
hook, and so not fit or capable of being pre-
served alive; any thing contained in the said
recited act to the contrary notwithstanding.

Anno

Anno vicefimo tertio Georgii II. Regis. cap. 36.

An Act (among other things,) to amend fo much of an act made in the firft year of the reign of King George the Firft, as relates to the better prefervation of falmon in the river Ribble.

7. And whereas by the Stat. 1 G. 1. (intituled, An act for the better preventing fresh fish taken by foreigners, being imported into this kingdom: and for the preservation of the fry of fish; and for the giving leave to import lobsters and turbets in foreign bottoms; and for the better preservation of falmon within feveral rivers, in that part of this kingdom called England) all persons whatfoever were restrained under the penalties, forfeitures, and punishments therein mentioned, from taking, killing, destroying, or wilfully hurting falmon of any kind or fize whatfoever, in the river Ribble in the county of Lancaster, and other rivers therein particularly named, between the laft-day of July, and the twelfth day of November, for ever; which restraint hath been found inconvenient as to the faid river Ribble, by reason that the time limited for restraining the taking fish therein, is not properly fited or adapted to the fifhing feafons there, fo as to answer the intention of the faid act, but it
would

would be much more advantageous to the salmon fisheries in that river, if persons were restrained from taking, killing, destroying, or wilfully hurting any salmon in the said river Ribble, betwixt the 14th of December, and the 2d of January yearly, and were at liberty to take and kill the same, the remainder of the year; it is therefore enacted, that It shall and may be lawful to and for the respective owners and proprietors of the fisheries and fishings in the said river Ribble, and every other person or persons intitled to fish therein, and their and every of their lessees, tenants, servants, and agents, and every of them at any time or times hereafter, betwixt the 1st January, and 14th September, in any year, to take and kill by any lawful ways or means whatsoever, any salmon, salmon peal, or salmon kind, in their respective fisheries and places within the said river Ribble, and to sell any of the fish so taken between the times aforesaid; any thing in the said recited act, or any other act to the contrary notwithstanding.

8. And it is further enacted, that if any person or persons whatsoever shall at any time hereafter, between the 14th September, and 2d January for ever, by or with any net, device, engine, ways or means whatsoever, take, kill, destroy, or wilfully hurt, any salmon of any kind or size whatsoever, in the said river Ribble, such person or persons shall incur, and be subject to such and the same penalties, forfeitures, and punishments

as were by the said recited act inflicted upon persons taking, killing, destroying, or wilfully hurting salmon in the said river, betwixt the last day of July, and 12th November, and shall be proceeded against and convicted thereof, in the same manner, as by such recited act is for that purpose directed.

9. Provided always, that all and every the clauses, articles, matters and things contained in the said recited act (save the alteration hereby made in the times of taking, and being restrained from taking salmon in the said river Ribble, as aforesaid) shall be and remain in full force; any thing herein contained to the contrary notwithstanding.

Anno vicesimo quarto Georgii II. Regis. cap.

34.

An act for the better preservation of the game in that part of Great Britain called Scotland.

1. That no person in Scotland, shall kill or destroy any moor fowl, from the first of January, to the tenth of July, or any partridge or heath fowl, from the first of February, to the twentieth of August in any year.

2. And, that no person whatsoever, not qualified to kill game in Scotland, shall have in his or her custody, or carry at any time of the year, upon any pretence whatsoever, any hares, partridges, pheasants, moor fowl, heath

heath fowl, snipes or quails; without the leave or order of a qualified person first obtained.

3. And that every person transgressing this act, shall for the first offence forfeit twenty shillings sterling; and for the second and every other offence, forty shillings sterling; to be levied by distress and sale of the goods of the offender; and in case of insolvency the party offending shall suffer imprisonment for six weeks for the first offence, and for three months for the second and every other offence.

4. And that all offences against this act shall be enquired into and determined, either by the oath of one or more credible witness or witnesses, or by the confession or oaths of the parties accused before any two justices, or before the sheriff of the county where the offence shall be committed, or where the offender shall be found; and that all prosecutions for offences against this act shall be carried on either at the instance of the fiscal of court, or of any other person who will inform or complain.

5. And that one moiety of the forfeitures shall be paid to the informer or prosecutor, and the other shall be applied for such public services within the county where the offence be committed, as the justices or the sheriff shall direct.

6. Provided always, That any persons aggrieved by the judgment of the justices or sheriff respectively, may appeal to the next general or quarter session, in case such judgment was given by any justices, or to

the lords of justiciary in their next circuit court, or (where there are no circuit courts) to the court of justiciary at Edinburgh, in case the judgment was given by the sheriff; and that the determination of the said session, or of the said circuit court, shall be final to all parties.

Anno vicefimo sexto Georgii II. Regis, c. 11.

An act to amend an act made in the eighth year of the reign of his late Majesty King George the first, intituled, An act for the better recovery, &c. by enlarging the time within which suits and actions are to be brought, by force of the said act.

Whereas by the stat. 8 G. 1. intituled, An act for the better recovery, &c. it is provided, That all suits and actions to be brought by force of the said act, shall be brought before the end of the next term after the offence committed: and whereas the time allowed by the said act for the bringing of such suits and actions, has been found very inconvenient, and in many cases is not sufficient for the commencing of prosecutions against offenders, whereby the intent of the said act hath been, in some degree, defeated; it is therefore enacted, That all suits and actions to be brought by virtue of the said act, for the recovery of any pecuniary penalty or sum of money for offences, which shall be committed against any law now in being, for the better preservation of
the

the game, shall and may be brought before the end of the second term after the offence committed; any thing in the said act contained to the contrary notwithstanding.

Anno vicefimo feptimo Georgii II. Regis, c. 15.

An act to explain and amend the stat. 9 G. 1. intituled, An act for the more effectual punishing, &c.

Whereas by the stat. 9 G. 1. intituled, An act for the more effectual punishing, &c. it is (among other things) enacted, That if any person or persons shall knowingly fend any letter without any name subscribed thereto, or signed with a fictitious name, demanding money, venifon, or other valuable thing, or shall forcibly rescue any person being lawfully in custody of any officer or other person, for any of the offences in the said act mentioned, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy: and whereas divers letters have been sent to several of his majesty's subjects, threatening their lives, or burning their houses, which letters not demanding money, venifon, or any valuable effects, are not subject to the penalties of the said act; to prevent the like mischievous and iniquitous proceedings for the future, it is enacted, That if any person or persons, shall know-

ingly send any letter, without any name subscribed thereto, or signed with a fictitious name or names, letter or letters, threatening to kill or murder any of his majesty's subject or subjects, or to burn their houses, outhouses, barns, stacks of corn or grain, hay or straw, though no money or venison, or other valuable thing shall be demanded in or by such letter or letters; or shall forcibly rescue any person, being lawfully in custody of any other officer or other person, for the offence, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy.

By the yearly Mutiny Acts.

And, for the better preservation of the game, in or near such place, where any officers or soldiers shall at any time be quartered, it is enacted, That if any officer or soldier shall, without leave of the lord of the manor, under his hand and seal first had and obtained, take, kill, or destroy, any hare, coney, pheasant, partridge, pigeon, or any other sort of fowls, poultry, or fish, or his majesty's game, within the kingdom of Great Britain; and upon complaint thereof shall be, upon oath of one or more credible witness or witnesses, convicted before any justice or justices of the peace, who is and are hereby impowered and authorised to hear and determine the same; (that is to say)

every

every officer so offending shall, for every such offence, forfeit the sum of five pounds, to be distributed among the poor of the place where such offence shall be committed; and every officer commanding in chief upon the place, for every such offence committed by any soldier under his command, shall forfeit the sum of twenty shillings, to be paid and distributed in manner aforesaid: and if, upon conviction made by the justices of the peace, and demand thereof also made by the constable or overseers of the poor, such officer shall refuse or neglect, and not within two days pay the said respective penalties; such officer so refusing or neglecting shall forfeit, and is hereby declared to have forfeited his commission, and his commission is hereby declared to be null and void.

Anno vicesimo octavo Georgii 2. Regis, c. 12.

An act to explain and amend a clause in the stat. 5 Ann. intituled, An act for the better preservation of the game, in relation to the selling or offering to sale any game.

1. Whereas by the stat. 5 Ann. intituled, An act for the better preservation of the game, it was enacted, That if any higlar, chapman, carrier, innkeeper, victualler, or alehouse-keeper, should have in his custody or possession, or should buy, sell or offer to sell, any hare, pheasant, partridge, moor, heath-game, or grouse, every such higlar, chapman, innkeeper, victualler, alehouse-keeper,

keeper, or carrier, (unless such game in the hands of such carrier be sent up by person or persons qualified to kill the game) shall, upon conviction of such offence, forfeit for every hare, pheasant, partridge, moor, heath-game, or grouse, the sum of five pounds, one half to be paid to the informer, and the other to the poor of the parish where the offence was committed: and whereas doubts have arisen with respect to the meaning of the word chapman, whereby the intent of the said act hath been in some degree defeated; it is therefore enacted, That if any person or persons whatsoever, whether qualified or not qualified to kill game, shall sell, expose, or offer to sale; any hare, pheasant, partridge, moor, heath-game, or grouse, every such person or persons shall, for every such offence, be subject and liable to the same forfeitures, pains, and penalties, as are inflicted by the said recited act upon hig-lars, chapmen, carriers, innkeepers, victuallers, or alehouse-keepers, for buying, selling, or offering of game to sale. See stat. 1 Jac. c. 27. s. 4.

2. And, That if any hare, pheasant, partridge, moor, heath-game, or grouse, shall be found in the shop, house, or possession of any poulterer, salesman, fishmonger, cook, or pastry-cook, the same shall be adjudged, deemed, and taken to be an exposing thereof to sale within the true intent and meaning of this act, and the said recited act, or any other act; which said forfeiture shall
be

be recovered, and such penalties inflicted, by such means, and in such manner, and from and within such time, and shall be applied to such uses, as are prescribed by the said recited act, or by any other act or acts since made for the preservation of the game; any thing in the said recited act, or any other law or statute to the contrary thereof in any wise notwithstanding.

Stat. 28. G. 2. c. 19. §. 3.

An act, among other things, for the preventing the burning or destroying of goss, furze, or fern in forests or chaces.

Whereas the burning and destroying of goss, furze, and fern, in and upon forests and chaces, as it is frequently done by divers disorderly and dissolute persons, doth not only destroy the cover necessary for the preservation of the deer and game there, but hath also been the occasion of burning, damaging, and destroying, of great quantities of timber, young plantings of wood and underwood, and fences, within the said forests and chaces, and places thereunto adjacent, to the great damage and prejudice of the owners, and proprietors thereof, and the laws now in being are not sufficient to prevent the same; it is therefore enacted, that if any person or persons not having a right or legal licence to do the same, shall at any time set fire to, burn or destroy, or shall abet,

bet, aid, or assist in, or at the burning or destroying of, any goss, furze, or fern, growing or being in or upon any forest or chace, within that part of Great Britain called England, without the licence or consent of the owner or proprietor, or the person chiefly intrusted with the care, oversight, and custody of such forest or chace, or some part thereof, and being brought before one or more justice or justices of the peace for the county, riding, division, or place, where such forest or chace shall lie, and shall be thereof convicted by confession, or upon the oath of one or more credible witnesses or witnesses (which oath such justice or justices is and are hereby impowered to administer) or upon the view of such justice or justices, every such person or persons being so convicted, shall for every such offence forfeit and pay any sum not exceeding five pounds, nor less than forty shillings, one moiety thereof to the informer, and the other moiety to the use of the poor of the parish where the offence shall be committed; which penalty, in case the same be not forthwith paid, shall and may be levied by distress and sale of the offender's goods and chattels, by warrant or warrants under the hand and seal, or hands and seals, of such justice or justices; and in case no sufficient distress can be found, then it shall and may be lawful for such justice or justices to commit such offender or offenders to the common gaol of the county or place
where

where such offence shall be committed, for any time not exceeding three months, nor less than one month.

Stat. 29 G. 2.

An act for explaining, amending, and rendering more effectual the stat. 22 G. 2. intituled, An act for making a free market for the sale of fish in the city of Westminster, &c.

Whereas by the stat. 22 G. 2. intituled, An act for making a free market for the sale of fish in the city of Westminster, &c. it is enacted, &c. [here the act recites a section of that statute, and having pointed out certain inconveniences attending the execution of certain clauses therein, proceeds to explain and amend it as follows:] That if any fisherman, or other person having the conduct of a fishing vessel, natives or foreigners, employed either in catching, bringing, or vending of fish, for the supply of London and Westminster, shall break bulk, or make sale of their fish, or any part thereof, between Harwich and the Nore, or between Margate and the Nore, to any person or persons to sell again, or shall not enter their ship, sloop, smack, or other fishing vessel, at such place or places, and within such time, as herein after mentioned, [repealed by stat. 33 G. 2.] or shall keep any fish whatsoever in such vessels, or in
any

any well-boat or store-boat, after their arrival, so as not to sell off their whole cargo of fish, within eight days from the day of their arrival at the Nore, and thereof shall be convicted before one justice of the peace for the counties of Kent or Essex, or before the mayor, recorder, or such aldermen who have power to act as justices within Queenborough or Gravesend, on his confession in writing under his hand, or on the oath of one credible witness, which conviction shall be final and without any appeal whatsoever, such vessel or boat, with all tackle, apparel, and furniture thereof, together with the cargo of fish, shall be forfeited by the owners, and disposed of as hereafter mentioned; such forfeitures to be levied by distress and sale, by warrant under the hand and seal of any one or more of his majesty's justices of the peace within the said counties of Kent or Essex, or of the said mayor, recorder, or aldermen, acting as magistrates within the towns of Queenborough and Gravesend, or such mayor, recorder, or alderman, of any other corporate town, between the said towns of Queenborough and Gravesend, and the city of Westminster, as aforesaid; which warrant they are hereby empowered and required to make and issue accordingly, and to be directed to the high constable, petty constable, headborough, or tythingman, of either of the said towns of Queenborough or Gravesend, or any other towns near unto where such offences shall be committed,

mitted, or where such vessel or boat shall then be, to take and seize the same, and sell and dispose thereof within 14 days accordingly; one moiety of the produce of such sale, after reasonable charges deducted, shall go to the informer, as the said justices shall appoint, and the other to the trustees appointed to put the said recited and this present act in execution, to be placed by any five of them, or their order, to the general account of surplus of profits arising from the fish market, in the said act mentioned, and to be appropriated as the said surplus is directed.

Provided, That in case any such fishing vessel is freighted with lobsters, or whole part-loading may be made up with lobsters, and the fishermen, &c. who shall be owners of such lobsters, or have the power to sell the same, shall sell off her whole cargo of such lobsters within twelve days after the arrival of such vessel, at the place or places herein before appointed, and in all other respects conform to the directions of the said recited and this present act; then the sale of such lobsters shall be as good as if it had been completed within eight days.

Provided also, That every such fisherman, or other person whatsoever, master or owner of any fishing vessel coming from sea, and every other person having the conduct of any such vessel, may at any time, during their voyages, and before their arrival at the Nore, shift and remove any
 Q part

part of their cargoes of fish into any other vessels, for the ease of their wells, the preservation of their fish, and the better separating such as are dead, dropt, or sickly, from those which are sound and healthy; so that no part be sold until their arrival, as aforesaid.

Provided also, That any fisherman or owner of any peter-boat, or other small fishing vessel used and employed for serving and supplying the inhabitants of any city, town, or village, or the neighbourhood thereof, on or near the banks of the said river, between the mouth of the said river, and the said towns of Queenborough or Gravesend, may sell or dispose of their fish as heretofore, in case such vessels are only used for the consumption of such fish within such city, &c. and the inhabitants thereof, or of the neighbourhood thereof.

And, That the aforesaid trustees, or any nine of them, may, by writing under their hands and seals, appoint an inspector, or inspectors of the fishing vessels, to search every fishing vessel, at any time after the arrival thereof at the Nore, or in any part of the river Thames between the Nore and Billingsgate Dock, to take account, as well of the arrival of such vessel, as of the time of selling the whole cargo of fish, and of the breaking bulk, and unloading such vessel, and shifting the cargo, or any part thereof, into such well-boats or store-boats, and of the delivery or selling off such cargo;

go; and remove such officer at their pleasure; which inspector or inspectors is and are empowered to enter into, inspect, and examine such fishing vessels accordingly; and every person on board is required to give to him such account thereof, according to the best of his knowledge; and in case any person or persons there found shall refuse to give such account, or shall molest, obstruct, or otherwise hinder such inspector in the execution of his office, or prevent, or endeavour to prevent, any person on board such vessel from giving such account, every such person so offending, being convicted before a justice of the peace, as aforesaid, by the confession of the party, or on the oath of one witness, shall, for every such offence, forfeit 10l. to be recovered and applied as aforesaid.

A section in this place enacted, That 2s. should be paid to the king's searchers for every fishing vessel, on certifying its arrival at Gravesend; 6d. thereof to go to the searcher for his certificate, and 1s. 6d. to the trustees; but this is repealed by the stat. 33 G. 2.

A section here enacted, That the master should give notice within three days of his vessels arrival at the Nore, to the searcher at Gravesend, who should make entry thereof, and give a certificate to the master; but this is repealed by the stat. 33 G. 2.

And it is further enacted, That the warrant of distress may be executed in any part of the

rivers Medway or Thames, or any creek or waters thereof.

And that if any person shall sell, or expose to sale, in any house, shop, stall, or standing, any fish of any kind whatsoever, within 500 yards of the free fish market, in Westminster, or the bounds or limits of such grounds as hath been appointed or assigned by or by virtue of the said recited act for holding the same, without the licence and consent of the trustees, or any five of them, in writing, under their hands and seals for that purpose, such person or persons shall, for every such offence, forfeit 5*l.* to be paid on conviction, before any two justices of the peace for Westminster, on the confession of the party, or on the oath of one witness, and this without further appeal; with power, nevertheless, to such justice or justices of mitigating the same; and, on refusing payment on such conviction, then the justice or justices, or any other justices of the peace, may grant their warrant of distress, upon the offenders goods, and divide the sum wherein such offender shall so stand convicted, as follows; to wit, one half to the informer, and the other half to the trustees, to be applied as aforesaid.

A section here recited certain restraining conditions in a building lease granted to Richard Hughes, and enabled trustees to dispense with them, and enacts, that it shall and may be lawful to and for any fishmongers holding shops for
the

the sale of fish in any of the houses, to sell and expose to sale any fish whatever in their said shops, although they shall have bought the same in the said free fish market at Westminster.

This section directs trustees to pay William Hanington 200l. in lieu of damages for being restrained from selling fish within a certain distance of the market.

This section exempts William Hanington from penalty of selling fish within a certain distance of the market, until the said 200l. be paid him.

This section enables the trustees to assign over any reserved rents, sums, or profits, as a security for any money they shall borrow on this or the recited act.

This section repeals so much of the recited act, as gives liberty for the exposing to sale, or exchanging for other goods, any of the kinds of fish therein described, and under the dimensions as are prohibited by the statute in the recited act for that purpose, and herein mentioned, in case the same are taken with a hook, and so not fit or capable of being preserved alive.

And that such part of the penalties which by the said recited act, are to be paid to the poor of the parish where the offence is committed, be paid to the trustees mentioned in the said recited act, or such person or persons as they, or any five of them shall appoint, to the increase of the surplus of the tolls and profits thereby appropriated to the putting out of apprentices to fishermen, masters of ships,

or some other person or persons employed in the sea service; and further, that the trustees appointed and to be appointed under the authority of the said recited act, are hereby impowered to execute this, as well as the said recited act; and all clauses in the said recited act, shall stand in full force, except such parts thereof as are altered by this act.

Provided always, that actions or suits for any thing done in pursuance of this act, shall be brought within six months after the fact committed, and shall be laid or brought in the county or place where such offence shall be committed, and the defendant may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance of this act; and if it shall appear so to have been done, or that such action or suit shall be brought after the time limited as aforesaid, that then the jury shall find for the defendant, and upon such verdict; or if the plaintiff shall become nonsuited, or discontinue his action, after the defendant shall have appeared; or if upon demurrer judgment shall be given against the plaintiff the defendant may recover treble costs, and have such remedy for the same, as in any case by law.

Stat.

Stat. 33 G. 2. c. 26.

An act to repeal so much of Stat. 29. G. 2. concerning a free market for fish at Westminster, as requires fishermen to enter their fishing vessels at the office of the searcher at Gravesend; and to regulate the sale of fish at the first hand in London and Westminster; and to prevent salesmen of fish buying fish to sell again on their own account; and to allow bret and turbet, bril and pearl, although under the respective dimensions mentioned in a former act, to be imported and sold; and to punish persons who shall take or sell any spawn, brood, or fry of fish, unsizeable fish, or fish out of season, or smelts under the size of five inches; and for other purposes.

Whereas by stat. 29. G. 2. intituled, An act for explaining, &c. it was enacted, &c. (here the act recites, sections 1, 2, 6 and 7 of that act) and repeals so much thereof as obliges the fishermen and others, to enter their fishing vessel with the searchers at Gravesend; and to the payment of 2s. for the certificate of such entry; and to report the arrival of such fishing vessels, &c.

And enacts, That such report, for the future, shall be made within three days after the arrival of every vessel with fish at the Nore, to the clerk of the coast office in London, who is to make an entry, and grant a certificate thereof, for which 2s. is to be paid;

paid; 6d. thereof to go to the clerk of the coast office, and 1s. 6d. to the trustees of the fish market at Westminster; or such person, as any five or more of the trustees shall, by writing, under their hands, appoint, to be applied by the trustees, or any five of them, as the money by the recited act to be paid to the searchers at Gravesend was to be applied.

That if the master, &c. shall neglect to make such entry, then upon information on oath before any justice of the counties of Kent, Surry, Essex, or Middlesex, or of the cities of London or Westminster, or before the mayor, recorder, or aldermen, acting as magistrates in Queenborough and Gravesend, or before the mayor, recorder, or aldermen, of any other corporate town between Queenborough and Gravesend, and the said city of Westminster, if the master shall be convicted by confession, or by oath of one or more credible witnesses, before any such justice or justices, the owner shall forfeit 50l.

And if the master, owner, chief officer, or mariner, refuses or neglects to give in at the same time, a particular and true account of all fresh salmon, salmon trouts, turbets, and large fresh cod, and half fresh cod fish, haddock, scate fish, fresh ling, lobsters, soles, and whittings, which shall be brought alive to the Nore in his vessel, the owner shall, on such master, &c. being convicted by confession, or by the oath of one witness, before

before any such justice or justices as aforesaid, for every such offence, forfeit 20l.; and if after such arrival, such master, &c. shall wilfully destroy or throw away any of the said fish, not being unwholesome or unmarketable, &c. he shall be committed to the house of correction, and kept to hard labour for any time not exceeding two months, nor less than one.

And that all forfeitures shall be levied by warrant under the hand and seal of any justice as aforesaid, by distress and sale of the goods of the owner of the vessel, or by distress and sale of his fishing vessel, or nets, tackle, or furniture, with costs; rendering the overplus, if any, to the person intitled thereto.

That the clerk of the coast office is to receive and make entry of all such reports of arrivals, and accounts given in of fish on board such vessels; and the books in which such entries are to be made, are to be kept at the coast office, and may be examined by any person; and is to make return in writing or printed weekly on Mondays, Wednesdays, and Fridays, to the mayor of London, and to the person who shall be appointed by the trustees for the fish market at Westminster, and also to the inspector, of all such entries and reports as aforesaid, upon pain to forfeit upon conviction, by confession, or on the oath of one witness, 5l. for every such omission or neglect.

And

And that no such live fish as aforesaid, shall after its arrival at the Nore, be removed out of the vessel in which it was brought, into the store or well boat of any other vessel, upon pain to forfeit 20l. and that no fish shall be delivered out of such fishing vessels, unless by retail, into other vessels, but such as shall be employed to carry the fish directly to market; and if such market vessels shall loiter on their way, or be above a tide after taking in their loading, in arriving at the market, and delivering her fish there, &c. the offender is to be committed to hard labour for any time not exceeding two months, nor less than one.

And that the inspector shall examine whether the entries are duly made, and see that no fish be put in any store or well boats contrary to the intent of the act; on forfeiture, for any neglect, or wilful misbehavior, of 20l. upon conviction by confession or oath of one witness before any justice as aforesaid: and that no salesman shall buy any fresh fish to be sold again, in which he is to be any ways interested, on forfeiture upon conviction as aforesaid of 50l.

And whereas by the stat. 1 G. 1. it is enacted, that no person should bring to shore in England, or sell, &c. any brett or turbot, or any brill or pearl, under the sizes therein mentioned: and whereas brett or turbot, brill or pearl, are often taken with an hook, under those dimensions, and if thrown into the sea, it is uncertain whether

whether they will live, or not; it is therefore further enacted, that bret, turbet, brill or pearl, may be brought to market, though under the dimensions of 16 inches required by the recited clause, so as the same be not sold by retail above 6d. per lb. and if any greater price shall be demanded or taken, or such fish shall not be weighed or measured, if required, the same may be seized by any person and delivered into the hands of a constable, and the constable shall carry the same, together with the party, before a justice, and the offender, upon conviction, as aforesaid, shall forfeit 20s. for every offence, and the fish shall, by order of the justice, be given to the prosecutor, and the money paid for the fish shall be returned.

And that no person shall sell, or expose to sale, at the first hand, at any fish market within the bills of mortality, or within 150 yards of any of any such fish market, during market hours, any fresh salmon, salmon trout, turbet, large fresh cod fish, or half fresh cod fish, haddock, scate fish, fresh ling, lobsters, soles, or whiting, before a particular account of the quantity of the several sorts of fish be placed over the stall or place where the same are to be sold; and all such other fish as shall be brought for sale, before the market is over, are to be added to the account, and the account kept up undefaced till the sale or market is over, on forfeiture of 10l. for offending in any of the premises, to be paid upon conviction as aforesaid,

foresaid, except for pulling down, or defacing, any such account, for which the forfeiture is 40s.

And for the better preservation of the spawn, brood, and fry of fish, and for preventing the sale of small and unsizeable fish, and fish out of season, it is further enacted, that no person shall, at any time, take, kill, or destroy, or knowingly have in his or her possession, either on the water or on shore, or shall bring to shore, or cry, carry about, sell, offer, or expose, to or for sale, or shall exchange for any goods, matter, or thing, any spawn, fry, or brood of fish, or any unsizeable fish, or any fish out of season, or any smelt which shall not be full five inches in length, from the nose to the utmost extent of the tail thereof; and if any one shall offend in the premises, it shall be lawful for any other person or persons, under the authority of this act, to take and seize all or any other spawn, fry, or brood of fish, or any unsizeable fish, or any fish out of season, or any smelt of less size than five inches from the nose to the utmost extent of the tail thereof, wherever the same shall be found, together with all baskets and package in which the same shall be so found or taken, and also to charge a constable, or other peace officer, with every such offender and offenders in the premises; and after every such seizure shall be made, the spawn, fry, or brood, or other fish, as aforesaid, together with the baskets and package,

kage in which the same shall be so seized, shall be delivered into the hands of some constable, or other peace officer; and every such constable, or other peace officer, is hereby authorised and required to take every such offender and offenders, with whom he shall be so charged for any such offence, into his custody, and also the spawn, fry, or brood of fish, and all unsizeable fish, and fish out of season, and all unsizeable smelts, and all baskets and package in which the same shall be so seized, and which shall be delivered to such constable, or other peace officer, as aforesaid, and to carry every such offender and offenders, and all such spawn, fry, or brood of fish, and all unsizeable fish, and fish out of season, and all unsize-smelts, together with the baskets and package, as aforesaid, which shall have been delivered to any such constable, or other peace officer, with all convenient speed, before some justice or justices as aforesaid, for such offender and offenders, to be dealt with according to law; and on the conviction of any such offender or offenders, for any such said offence, before any such justice or justices, as aforesaid, ever such offender and offenders shall forfeit all and every such spawn, fry, or brood of fish, unsizeable fish, and fish out of season, and every smelt and smelts of less size than five inches from the nose to the utmost extent of the tail thereof, which shall be so seized, together with all baskets or package in which the

R

same

same shall be so seized, and all such spawn, fry, or brood of fish, unsizeable fish, and fish out of season, and unsizeable smelts, together with such baskets and package in which the same shall have been so seized, as aforesaid, shall, by order of the justice or justices before whom the same shall be so brought, be delivered to the person or persons who shall have so seized the same, and shall prosecute to conviction any such offender or offenders; and every offender and offenders in the premises who shall be convicted, as aforesaid, of any such offence, shall besides forfeit and pay, for every such offence, the sum of twenty shillings.

And that the under water bailiff, and yeomen of the waterside, shall see that the provisions of this act, concerning the sale of fresh fish at Billingsgate; and punishment of persons having spawn or unsizeable fish, &c. in their possession, be carried into execution; and that the act 9 Anne, against regrating of fish in the said market, be observed; and to lay information before a proper magistrate of all offenders against the said statutes; and the supervisor of the fish market at Westminster is to take care, in like manner, that the aforesaid provisions be duly executed and observed there, on penalty of their respectively forfeiting, upon conviction as aforesaid, for any neglect or omission of their duty, 5*l*.

And that any justice as aforesaid, shall grant his warrant under his hand and seal,
to

to levy any money forfeited by this act, by distress and sale of the goods of the offender, together with costs (except in the cases herein before particularly provided to charge the owners of such fishing ship, sloop, smack, or other fishing vessel or vessels) and that one moiety of all forfeitures (the application whereof is not herein before particularly appropriated) shall go to the prosecutor; and the other, except where the conviction shall be for any offence committed in Westminster, or for not making the entry at the said coast office of the arrival of any such vessel as aforesaid, shall go to the poor of the parish in which any such offence shall be committed: And where any conviction shall be for any offence in Westminster, or for not reporting the time of such arrival as aforesaid, the said other moiety shall go to the trustees appointed to put the said recited acts in execution, to be placed by any five of them, or their order, to the general account of surplus of profits arising from the said fish market in Westminster, and to be appropriated as the said surplus in the act of 22 G. 2. is directed: And if sufficient distress cannot be found, then such offender shall, by warrant under the hand and seal of such justice, be apprehended and be committed to the house of correction, to be kept to hard labour for any time not exceeding three months, as any such justice or justices shall order, unless the money forfeited shall be sooner paid.

That no person shall be punished for any offence against this act, unless a prosecution shall be commenced against him, within two months after such offence committed, or who shall have been punished under any other law; and that where any person shall be committed for default of payment, or want of distress, and shall remain there his time, he shall not be liable afterwards to be prosecuted again for nonpayment of such money forfeited; and that inhabitants of the parish be admitted to be competent witnesses.

That the justice may mitigate any of the penalties under 5l. so as he does not remit above one half.

And that the justice shall cause the conviction to be drawn up in the form, or to the effect following:

To wit, " Be it remembered, That on
 " this day of
 " in the year of the reign of
 " A. B. is convicted before
 " of his majesty's justices of the
 " the peace for the county of
 " or city of or corporation of
 " (as the case shall happen to
 " be) for and do adjudge
 " him, her, or them (as the case shall be)
 " to pay and forfeit the sum of
 " Given under our hands and seals (or
 " my hand and seal) the day and year
 " above said."

That

That persons aggrieved, may appeal to the next general or quarter session, the appellant first entering into a recognizance to abide by the order, and giving 8 days notice of such appeal to the prosecutor, and the justices at the said sessions are authorised to hear and determine the matter of such appeal, &c. and to levy by warrant the costs and penalty by distress, and for want of distress to commit the party to gaol, to be kept to hard labour for six months, unless the penalty and costs shall be sooner paid, and their order shall be final.

Provided likewise, that if any action or suit shall be commenced in pursuance of this act, they shall be brought within six months after the fact committed, and shall be laid in the county, city, or place, in which such offence shall be committed, and the defendant may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance of this act; and if it shall appear so to have been done, or that such action or suit shall be brought after the time limited, then the jury shall find for the defendant; and upon such verdict, or if the plaintiff shall be nonsuit or discontinue his action, after the defendant shall have appeared; or if, upon demurrer, judgement shall be given again the plaintiff, the defendant shall be paid treble costs, and have such remedy for recovery of the same, as any defendant to recover his costs by law.

Stat. 2 G. 3. c. 15.

An act for the better supplying of the cities of London and Westminster with fish, and to reduce the present exorbitant price thereof; and to protect and encourage fishermen.

It is enacted, That it shall be lawful for any person, though not a fishmonger, to buy at any market, sea coast, creek, or place, in Great Britain, any fish in season, and sizeable, paying the accustomed dues at the place of purchase; and to sell the same again in any fish or flesh market, paying the usual market dues.

Provided, That this shall not extend to empower persons to sell fish in Covent Garden market, and the precincts thereof.

And that such fish shall not be resold by the first purchaser, before the same shall be brought to London or Westminster, or to where the same shall be consigned, under the penalty of 20l.

And that all such fish shall be conveyed to the places consigned, without being liable to be stopped, in order to be exposed to sale on the way.

And that carriages, employed in the conveyance of fish, are to carry fish only, and shall be marked on the outside, *fish machine only*; and are to be entered at the office for licensing hackney coaches, paying 1s. for the registering; and numbered on a conspicuous part, on the penalty of 40s. and such carriages

carriages shall not be deemed common stage waggons, &c.

And they shall be permitted to travel with horses in pairs, not exceeding four, or with one horse; or three horses in length, tho' with narrow wheels; and shall only pay the like toll as post chaises, &c. drawn by a like number of horses.

And shall be allowed to travel on Sundays and holidays; as shall also the returned horses of such carriages; and the driver may ride on any of the horses without incurring any penalty.

And neither carriages or horses, if returning empty, shall be liable to pay toll, although the horses shall be rode, and although such horses shall not draw back the empty carriage.

And if any game, or other thing, besides fish, and the necessary implements of the carriage, be put therein for conveyance, the person, not being the driver, putting in the same shall forfeit 5l. and if the driver shall take up, or suffer any passenger, game, or other thing, to be carried therein, he shall forfeit 40s. and on non-payment shall be committed to the house of correction, and kept to hard labour for any time not exceeding one month, unless the money shall be sooner paid.

And if bulk shall be broke of any fish carriage consigned for the London markets, &c. before being brought within the bills of mortality, or if the fish be sold or exposed
to

to sale before they are exposed in the said markets, the offender shall forfeit 10l.

That the fish, after being so brought up, is to be forthwith sorted, and exposed to sale in some public market within the weekly bills of mortality, the next morning, Sundays excepted; and until such fish is so exposed, no part thereof is to be sold by retail, on penalty of 10l.

Provided that mackerel brought up by such carriages may be sold before or after divine service on Sundays.

That all contracts made for fish, except for salmon and lobsters, are vacated after May 1, 1762, and the parties discharged from the penalties they may incur for non-performance of their contracts; and persons contracting after the said time for buying up fish, other than salmon or lobsters, before the same shall be first brought to market and duly exposed to sale there, shall forfeit 50l. and the contract is declared void.

And after May 1, 1762, no contract for British salmon and lobsters shall be in force for longer than one year.

After May 1, 1762, no person shall employ or be employed in buying at the markets of London or Westminster, &c. fish brought there for sale, to be afterwards divided amongst fishmongers, or others to be afterwards sold; nor shall any person buy in the said markets any fish but what shall be for his own sale or use, on penalty of 20l.

That

That if any salesman or other person shall refuse to sell, or shall enter into any agreement or confederacy not to sell to or for any particular person's use, any fish exposed to sale at a public market, he shall forfeit 20l.

And all fish of the respective sorts specified in the act, brought after May 1, 1762, for sale to the London markets, shall be only sold at the first hand, and in no greater number or quantity in a lot than is hereafter prescribed; and every lot is to consist of one sort of fish only, viz.

All fresh salmon, sturgeon, large fresh cod, skait, pike, turbot, brett, brill, pearl, kingston, ling, and dorys, by the single fish; all half fresh cod, not exceeding two in any one lot; all quarter fresh cod, not exceeding four in any one lot; all mullets, cole fish, salmon trout, and other trout, not exceeding two in any one lot; all small cod, not exceeding twenty-four in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding eight in any one lot:

All small pike, not exceeding six in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding four in any one lot:

All large haddock, not exceeding four in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in
any

any other market within the weekly bills of mortality, not exceeding two in any one lot :

All small haddock, not exceeding 24 in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock ; and, in any other market within the weekly bills of mortality, not exceeding eight in any one lot :

All perch, above six inches long from the eye to the fork of the tail thereof, not exceeding 12 in any one lot, in Billingsgate, or within 150 yards of Billingsgate dock ; and, in any other market within the weekly bills of mortality, not exceeding eight in any one lot :

All carp, gurnet, tench, and sea bass, not exceeding six in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock ; and, in any other market within the weekly bills of mortality, not exceeding four in any one lot :

All thornbacks, not exceeding two in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock ; and, in any other market within the weekly bills of mortality, not exceeding one in any one lot :

All large foals, not exceeding four pair in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock ; and, in any other market within the weekly bills of mortality, not exceeding two pair in any one lot :

All

All small soals, not exceeding eight pair in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding four pair in any one lot :

All mackerel, whittings, whiting pouts, plaice, dabbs, herrings, pilchards, garb fish, flounders, and maids, not exceeding sixty in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding 30 in any one lot.

All smelts, not exceeding 52 in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding 26 in any one lot :

All eels, not exceeding 20lb. weight, in any one lot, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding 10lb. weight in any one lot, unless any single fish shall exceed that weight :

All large lobsters and crabs, not exceeding, of either sort, in any one lot, 20, in Billingsgate market, or within 150 yards of Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding 10 of either sort in any one lot :

All small lobsters and crabs, not exceeding, of either sort, in any one lot, 40, in Billingsgate market, or within 150 yards of
Billingsf-

Billingsgate dock; and, in any other market within the weekly bills of mortality, not exceeding 20 of either sort in any one lot:

And if any person or persons shall sell or buy any of the fish aforesaid, at the first hand, in any market in London, or within 150 yards of Billingsgate dock, or in any market in Westminster, or within the weekly bills of mortality, in any lot or parcel, containing any greater number of any sort of fish as aforesaid in any such lot or parcel, or any greater weight of eels in any lot or parcel, than is herein before appointed to be sold in any one lot or parcel; or if any one shall sell, or offer for sale, in such lot or parcel, more than one sort of any of the fish herein before specified; he, she, or they, who shall so offend, and be convicted of any such offence as after mentioned, shall, for every such offence, forfeit 5*l.* to be levied, &c. as after directed.

Provided always, That a smaller number of any of the said fish than a lot consists of, if it contains more than one; and also a lesser weight of eels than makes one lot, may be sold or exposed to sale in the said markets.

That no fish shall be sold again, or exposed to sale the same day, in the same market where it was before sold, on penalty of 10*l.* but the buyer may sell the same, whilst sound and wholesome, in any other place.

That no person shall sell, or expose to sale, at the first hand, in any of the said markets, before an account of the sorts and

and quantity of each, in large legible characters, is put up at the fish stand, the number of flounders, plaice, dabbs, mackerel, maids, herrings, and pilchards excepted; and any other fish of the sorts mentioned in the act be brought for sale, before the market of the day is over, they are likewise to be added to the account, before they are exposed to sale; and the said accounts are to be kept up, undefaced, till all the fish be sold, or the market be over, on penalty of 5l. or if any person before such time shall wilfully take down, deface, or alter, the accounts so put up, or cause the same to be done, he shall forfeit 40s.

And that no fisherman, &c. after the arrival of his vessel from fishing, shall destroy, or cast away, any of the fish, not being unwholesome, perished, or unmarketable, except sprats, remaining unsold after market is over; on penalty of being committed, and kept to hard labour for any time not exceeding two months, nor less than one week.

And that all persons coming under the four following descriptions, employed in the fisheries of these kingdoms, are exempted from being impressed into the king's service, viz. 1st, masters of fishing vessels, who, either themselves or their owners, have, or within six months before applying for a protection, shall have had, one or more apprentices, under 16 years of age, bound for five years, and employed in the business of

fishing; 2dly, all such apprentices, not exceeding four to every master or owner of a fishing vessel of 30 tuns burthen, or upwards; and two to every vessel under 30 tuns, during the time of their apprenticeship, and which in the actual service of their master, and till the age of 20 years, they continuing for the time in the business of fishing only; 3dly, one mariner, besides the master and apprentices, to every fishing vessel of 10 tuns burthen, or upwards, employed on the sea coast, during his continuance in such service; 4thly, any landman entering, and being employed on board such vessel, for two years from his first going to sea, and to the end of the voyage then engaged in, if he so long continue employed in such service.

That on affidavit being made before some justice, and laid before the admiralty, that the persons therein named and described come within some or one of the above descriptions, (inserting the tunnage of the vessel, and port she belongs to, the name and description of the master, the age of every such apprentice, and term he is bound for, with the date of his indenture, and the name, age, and description of every such mariner and landman, with the time of such landman's first going to sea) the admiralty shall thereupon, unless they suspect the truth of such affidavit, (which in such case they are directed to enquire into) grant, without any fee, a separate protection to every

every such person, during the time he is allowed by this act to be protected; on producing whereof, they are to be forthwith released, if impressed.

And if any such protected person shall be impressed, except in the case of invasion, or imminent danger thereof, and on producing, or offering to produce his protection, the commanding officer shall not examine, or shall withhold such protection, and not release him; or if, being carried on board any of the king's ships, the commanding officer there shall not discharge him on such protection being produced; or if taken away from him at or after his having been so impressed, on tendering to him an affidavit made before some justice, that such protection was granted, and in force, and was taken away, when he was impressed, if such commander do not forthwith discharge him, or if any commanding officer, or any of the crew under him, shall take away or detain such protection, the offender, in any of the said cases, shall forfeit 20l. to the party impressed, not being an apprentice, and if an apprentice, then to his master.

And if the master or owner of any fishing vessel shall knowingly harbour, entertain, or employ, in such vessel, a deserter from the king's service, by sea or land, he shall forfeit 20l.

And justices are impowered to hear and determine all offences committed against this act, within their respective jurisdictions; and

the pecuniary penalties, where the time is not otherwise limited, are to be paid in 24 hours after conviction, by confession or oath of one witness, and may be levied by distress; and if within five days from such distress the forfeiture shall not be paid, together with all such charges as shall be ascertained by a justice, the goods distrained shall be sold; and for want of sufficient distress, (except in the case of the driver of a fish carriage) the offender, on the application of the prosecutor, shall be committed to the house of correction, and kept to hard labour, for any time not exceeding two months, unless the forfeiture be sooner paid.

And prosecutions upon this statute shall be commenced within three months after the offence; and persons suffering imprisonment for any offence, are not liable to pay the penalty.

And that any of the parties concerned in contracting for fish, contrary to this act, giving the first information against, and convicting others, is indemnified himself, and intitled to a moiety of the penalty.

And if it shall be made out by the oath of any credible person, that any one within the jurisdiction of a justice is likely to give material evidence, and will not voluntarily appear, the justice may summon such witness, and may examine him upon oath; and if he shall neglect or refuse to appear, without cause shewn, a warrant shall be issued against him, and on his refusing to be examined,

mined, may be committed to prison for any time not exceeding 14 days, nor less than three.

That in case an offender shall escape out of the jurisdiction of the justice granting a warrant against him, the justice for the county where he shall escape to, may back such warrant, proof being made of the original signing thereof; and may hear and determine the matter of complaint, as if it had originally arose within his jurisdiction; or he may return the offender to his original county, to be dealt with according to law.

That one moiety of all forfeitures, not otherwise appropriated, shall go to the prosecutor, and the other to Greenwich Hospital.

That persons aggrieved by the order or determination of any justice, may appeal to the next general or quarter session, giving eight days notice to the parties, and security to prosecute such appeal with effect, and to abide by the order; and if there be not time to give such notice, appeal may then be made to the subsequent session; and the justices are then to determine the same, and award costs, to be levied, together with the money adjudged to be forfeited, by distress and sale on the party, if distress can be found, and if not, then by distress on his sureties.

That no order or proceedings of justices shall be vacated for want of form, or re-

moved by certiorari, &c. nor shall the order of sessions be appealed from.

And that actions or suits brought for any thing done in pursuance of this act, shall be brought within six calendar months next after any such cause of action shall have accrued; and shall be brought in the county, city, or place, in which the cause of action shall have arisen; and the defendant may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or if any such action or suit shall not be commenced within the time before limited, or shall be laid or brought in any other county, city, or place, than where the cause of action shall have arisen, then the jury shall find a verdict for the defendant; and upon such verdict, or if the plaintiff shall become nonsuit, or discontinue his action, after the defendant hath appeared, or if, on any demurrer, judgment shall be given for the defendant; then such defendant shall recover treble costs, and shall be intitled to pursue such remedy for recovering of the same, as any defendant hath to recover his costs in other cases.

And that all the provisions and regulations herein contained, with respect to places within the weekly bills of mortality, touching the sale or buying of fish, and all penalties

ties for the non-observance thereof, shall extend to the parish of St. Mary-le-bone.

Provided, That nothing herein shall extend to make void any contract already made, or to prevent any contract from being made, after the 1st of May, 1762, by or with any person, in regard to salt or dried fish, oysters, carp, or tench.

That no information may be received by a justice against any person, for being concerned in any contract for buying up fish to be sold again contrary to this act; but the penalty for entering into such contract shall be recoverable only, with double costs, in one of the courts at Westminster; one moiety to go to Greenwich Hospital, and the other to the prosecutor.

Stat. 2 Geo. 3. c. 19.

An act for the better preservation of the game in that part of Great Britain called England.

For the better preservation of the game in this kingdom, it is enacted, That no person or persons shall, upon any pretence whatsoever, take, kill, destroy, carry, sell, buy, or have in his, her, or their possession or use, any partridge, between the 12th of February and the 1st of September, in any year; or any pheasant, between the 1st of February and the 1st of October, in any year; or any heath fowl, commonly called black game, between the 1st of January and the 20th of August, in any year; or any grouse,

grouse, commonly called red game, between the 1st of December and the 25th of July, in any year.

Provided, That nothing in this act shall extend to any pheasant which shall be taken in the season allowed by this act, and kept in any mew or breeding-place. Nor to that part of Great Britain called Scotland.

And that if any person or persons shall transgress this act in any of the aforesaid cases, and shall be lawfully convicted thereof by the oath of one or more credible witnesses or witnesses, every such person shall, for every partridge, pheasant, heath fowl, or grouse, so taken, killed, destroyed, carried, sold, bought, or found in his, her, or their possession or use, contrary to the true intent and meaning of this act, forfeit 5l. to the person or persons who shall inform or sue for the same: and it shall be lawful to and for any person or persons to sue and prosecute for, and recover the said penalty of 5l. with full costs of suit, by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster; and in such action or suit, no essoin, wager of law, or more than one imparlance, shall be allowed.

And whereas by stat. 8. G. 1. intituled, An act for the better recovery of the penalties inflicted upon persons who destroy the game; it was enacted, That where any person shall, for any offence against any game law, be liable to any pecuniary penalty, upon

upon conviction before any justice, it shall be lawful for any other person whatsoever, either to proceed to recover the said penalty by information and conviction, before a justice, or to sue for the same by action of debt, or on the case, bill, plaint, or information, in his majesty's courts of record: and whereas, a moiety or portion of the said pecuniary penalty is, by several acts of parliament, directed to be applied to the use of the poor of the parish wherein such offence shall be committed, by reason whereof inhabitants of the said parish have been disallowed to give evidence touching such offences; and whereas suits by action of debt, or on the case, bill, plaint, or information, are often attended with great costs and charges to the prosecutor, by means whereof the intentions of the act have been frustrated; for remedy whereof, it is enacted, That it shall be lawful for any person whatsoever, to sue for and recover the whole of such penalty for his own use, by action of debt or on the case, bill, plaint, or information, in any of his majesty's courts of record at Westminster, wherein no essoin, wager of law, or more than one imparlance, shall be allowed; and wherein the plaintiff, if he recovers, shall have his double costs; and that no part of the said penalty, recovered in any such suit or action, shall be paid or applied to or for the use of the poor of the parish where such offence shall be committed.

Pro-

Provided, That no such action, suit, bill, plaint, or information, shall be brought or exhibited, but within the space of six months next after the matter or thing done, for which the same shall be commenced or exhibited as aforesaid.

Stat. 5 Geo. 3. c. 14.

An act for the more effectual preservation of fish in fish ponds and other waters; and conies in warrens; and for preventing the damage done to sea banks, within the county of Lincoln, by the breeding conies therein.

Whereas the several laws in being for the preservation of the fish in rivers, ponds, pools, moats, stews, and other waters, are by experience found to be ineffectual to deter divers loose, idle, and disorderly persons, from stealing, taking away, or destroying, the fish therein bred and preserved: it is therefore enacted, That in case any person or persons shall enter into any park or paddock fenced in and inclosed, or into any garden, orchard, or yard, adjoining or belonging to any dwelling-house, in or through which park, or paddock, garden, orchard, or yard, any river or stream of water shall run or be, or wherein shall be any river, stream, pond, pool, moat, stew, or other water, and by any ways, means, or device whatsoever, shall steal, take, kill, or destroy, any fish bred, kept, or preserved, in any
such

such river or stream, pond, pool, moat, stew, or other water aforesaid, without the consent of the owner or owners thereof; or shall be aiding or assisting in the stealing, taking, killing, or destroying any such fish as aforesaid; or shall receive or buy any such fish knowing the same to be so stolen or taken as aforesaid; and being thereof indicted within six calendar months next after such offence or offences shall have been committed, before any judge or justices of gaol delivery for the county wherein such park or paddock, garden, orchard, or yard, shall be, and shall on such indictment be, by verdict, or his or their own confession or confessions, convicted of any such offence or offences, the person or persons so convicted shall be transported for seven years.

And that in case any person or persons shall commit or be guilty of any such offence or offences as before mentioned, and shall surrender himself to any one of his majesty's justices of the peace in and for the county where such offence or offences shall have been committed; or, being apprehended and taken, or in custody for such offence or offences, or on any other account, and shall voluntarily make a full confession thereof, and a true discovery, upon oath, of the person or persons who was or were his accomplice or accomplices in any of the said offences, so as such accomplice or accomplices may be apprehended and taken, and shall, on the trial of such accomplice or accom-

accomplices, give such evidence of such offence or offences, as shall be sufficient to convict such accomplice or accomplices thereof; such person making such confession and discovery, and giving such evidence as aforesaid, shall be pardoned, acquitted, and discharged, of and from the offence or offences so by him confessed as aforesaid.

And that in case any person or persons shall take, kill, or destroy, or attempt to take, kill, or destroy, any fish, in any river or stream, pond, pool, or other water, (not being in any park or paddock, or in any garden, orchard, or yard, adjoining or belonging to any dwelling-house, but shall be in any other inclosed ground which shall be private property) every such person, being lawfully convicted thereof by the oath of one or more credible witness or witnesses, shall forfeit and pay, for every such offence, the sum of 5*l.* to the owner or owners of the fishery of such river or stream of water, or of such pond, pool, moat, or other water: And it shall be lawful for any one or more of his majesty's justices of the peace of the county, division, riding, or place, where such last mentioned offence or offences shall be committed, upon complaint made upon oath, against any person or persons, for any such last mentioned offence or offences, to issue his or their warrant or warrants to bring the person or persons so complained of, before him or them; and, if the person or persons so complained of shall be convicted
of

of any of the said offences last mentioned before such justice or justices, or any other of his majesty's justices of the same county, division, riding, or place aforesaid, by the oath or oaths of one or more credible witness or witnesses, which oath such justice or justices are hereby authorised to administer, or by his or their own confession; then, and in such case, the party so convicted shall, immediately after such conviction, pay the said penalty of 5*l.* hereby before imposed for the offence or offences aforesaid, to such justice or justices before whom he shall be so convicted, for the use of such person or persons as the same is hereby appointed to be forfeited and paid unto; and, in default thereof, shall be committed by such justice or justices to the house of correction, for any time not exceeding six months, unless the money forfeited shall be sooner paid.

Provided, That it shall and may be lawful to and for such owner or owners of the fishery of such river or stream of water, or of such pond, pool, or other water, wherein any such offence or offences last mentioned, shall be committed, to sue for the said 5*l.* by action of debt, bill, plaint, or information, in his majesty's courts of record at Westminster; and in such action or suit, no essoin, wager of law, or more than one imparlance shall be allowed; provided that such action or suit be brought, or commenced, within six calendar months next after such offence or offences shall have been committed.

T

Pro.

Provided, That nothing in this act shall extend to subject any person or persons to the penalties of this act, who shall fish, take, or kill, and carry away any fish, in any river or stream of water, pond, pool, or other water, wherein such person or persons shall have a just right or claim to take, kill, or carry away any such fish.

And whereas there are many thousand acres of land in this kingdom altogether unfit for cultivation, and yet the same are capable of rendering great profit, by the breeding and maintaining of conies, as well to the owners of such lands, as to a multitude of industrious manufacturers, who gain their livelihood by working up coney wool: And whereas a great part of the said land is already used as warrens, in the breeding and maintaining conies, but, because divers disorderly persons, neglecting their own lawful trades, have betaken themselves to the taking, killing, and stealing of conies, in the night time, whereby the owners and occupiers of such warrens are greatly discouraged, and many such owners and occupiers have been induced to destroy such warrens, and others have been deterred from stocking other lands, to the great prejudice of the manufactures of this kingdom: For remedy thereof, it is enacted, That if any person or persons, shall wilfully and wrongfully, in the night-time, enter into any warrens or grounds lawfully used or kept for breeding or keeping of conies, although the same be
not

not inclosed, and shall then and there wilfully and wrongfully take or kill, in the night-time, any coney or conies, against the will of the owner or occupier thereof, or shall be aiding or assisting therein, and shall be convicted of the same before any of his majesty's justices of oyer and terminer, or general gaol delivery, for the county where such offence or offences shall be committed; every such person and persons so offending, and being thereof lawfully convicted in manner aforesaid, shall be transported for seven years, or suffer such other lesser punishment by whipping, fine, or imprisonment, as the court shall, in their discretion, award and direct.

Provided, That no person who shall be convicted of any offence against this act, shall be liable to be convicted for any such offence under any former act or acts, law or laws, now in force.

And whereas great mischief and damage has been, and still may be, occasioned by the increase of conies upon the sea and river banks in the county of Lincoln, or upon the land or ground within a certain distance from the said banks: For remedy thereof, it is enacted, That nothing in this act contained shall extend to prevent any person or persons from killing and destroying, or from taking and carrying away, in the day-time, any conies that shall be found on any sea or river banks, erected, or to be erected, for the preservation of the adjoining lands,

from being overflowed by the sea or river waters, so far as the flux and reflux of the tide does extend, or upon any land or ground within one furlong distance of such sea or river banks; but that it shall be lawful for any person or persons, to enter upon any such banks, land, or ground, as aforesaid, within the said county of Lincoln, and to kill, destroy, take, and carry away, in the day-time, to his or their own use, any conies so found upon any such banks, land, or ground, as aforesaid, within the said county, he or they doing as little damage as may be to the owner or owners of such banks, land, or ground.

Provided also, That no person or persons shall be obliged to make satisfaction for any damages that may be occasioned by such entry, unless such damages shall exceed 1s.

Stat. 10. Geo. 3. c. 18.

An act for preventing the stealing of dogs.

Whereas the practice of stealing dogs hath of late years greatly increased: for remedy whereof, it is enacted that if any person shall steal any dog or dogs, of any kind or sort whatsoever, from the owner or owners thereof, or from any person or persons intrusted by the owner or owners thereof, with such dog or dogs; or shall sell, buy, receive, harbour, detain, or keep, any dog or dogs of any kind or sort whatsoever, knowing

ing the same to have been stolen, as aforesaid; every such person, upon being convicted thereof upon the oath of one or more credible witness or witnesses, or by his or her own confession, before any two or more justices of the peace for any county, riding, division, or place, shall, for the first offence, forfeit and pay such sum of money, not exceeding thirty pounds, nor less than twenty pounds, as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice before whom such offender shall be convicted: and in case such penalty shall not be forthwith paid, such justices shall commit the offender to the common gaol, or house of correction, there to remain without bail or mainprize for any time not exceeding twelve, nor less than six calendar months, or until the penalty and charges shall be paid; and if any person, having been convicted as aforesaid, shall afterwards be guilty of the like offence, and shall be thereof convicted in like manner; every such person shall, for every such offence, forfeit such sum of money, not exceeding 50*l.* nor less than 30*l.* as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justices before whom such offender or offenders shall be so convicted: which said penalties, or any of them, when recovered, shall be paid, one moiety thereof to the informer, and the other to the poor

of the parish where the offence shall be committed; and, upon non-payment thereof, such justices shall commit the offender to the common gaol, or house of correction, there to remain without bail or mainprize for any time not exceeding 18 months, nor less than 12 months, or until the penalty and charges shall be paid; and such justices shall also order the said offender to be publicly whipped, within three days after commitment, in the town wherein such gaol or house of correction shall be, between the hours of twelve and one of the clock.

And that it shall and may be lawful for any one or more of his Majesty's justices of the peace in or for any county, riding, division, or place, upon information to him or them made for that purpose, to grant a warrant or warrants to search for any dog or dogs stolen as aforesaid; and in case any such dog or dogs, shall, upon such search, be found, to take and restore every such dog or dogs, or such skin or skins, to the owner thereof; and the person or persons in whose custody or possession any such dog or dogs, skin or skins, shall be so found, (in case it shall appear that such person was privy to such dog or dogs having been stolen, as aforesaid, or that such skin or skins was the skin or skins of any dog or dogs stolen, as aforesaid) shall respectively be subject to the like penalties and punishments as persons convicted of stealing any dog or dogs are herein before made subject to.

And,

And, for the more easy and speedy conviction of offenders against this act, it is enacted, That all justices of the peace, before whom any person or persons shall be convicted of any offence against this act, shall and may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, as the case shall happen, viz.

“ Be it remembered, That on the
 “ day of in the year of our Lord
 “ A. B. is convicted before us of his
 “ majesty’s justices of the peace for the
 “ county of (specifying the offence,
 “ and the time and place when and where
 “ the same was committed, as the case shall
 “ be.)

“ Given under our hands and seals the
 “ day and year aforesaid.”

Provided, That if any person shall think himself or herself aggrieved by any thing done in pursuance of this act, such person may appeal to the justices of the peace at the next general quarter session of the peace to be held for the county or place wherein the cause of complaint shall arise, and within four days after the cause of such complaint shall have arisen; such appellant giving, or causing to be given, 14 days notice at least, in writing, of his or her intention to bring such appeal, and of the matter thereof, to the persons whose acts are complained against, and, within two days after such notice, entering into a recognizance
 before

before some justice of the peace for such county or place, with two sufficient sureties, conditioned to try such appeal, and abide the order of, and to pay such costs as shall be awarded; and the said justices at such session, upon due proof of such notice being given, as aforesaid, and of the entering into such recognizance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing, or appealed against, as they shall think proper; and their determination shall be final and conclusive, to all intents and purposes; and no order or other proceedings shall be quashed for want of form, or be removed by writ or process into any of his majesty's courts of record at Westminster.

Stat. 13. G. 3. c. 55.

An act to explain and amend the several laws now in being, so far as the same relate to the preservation of the moor or hill game.

It is enacted, (as the laws relative to the preservation of the moor or hill game, have been found very insufficient, and as some further regulations are become absolutely necessary, to prevent the total destruction of that species of game); that no person shall, upon any pretence whatever, wilfully take, kill, destroy, carry, buy, sell, or have in his possession or use, any heath fowl, common-
ly

ly called black game, between December 10, and August 20; any grouse commonly called red game, between December 10, and August 12; nor any bustard between March 1, and September 1.

And if any person shall, in any of the cases aforesaid, offend, contrary to the true intent and meaning of this act, he shall for the first offence, forfeit not exceeding 20*l.* nor less than 10*l.* and for the second, and every offence, not exceeding 30*l.* nor less than 20*l.* to be levied and recovered in manner after mentioned.

Penalties so to be incurred as aforesaid, may be recovered by action of debt, bill, &c. in any court of record at Westminster, or great sessions in Wales; wherein no essoin, protection, nor wager of law, nor more than one imparlance, shall be allowed: provided such action be brought within six calendar months after the offence committed.

Any person (except those liable to pay such forfeitures) may proceed to recover any of the aforesaid penalties, by information and conviction, before any justice of any county, city, corporation, division, &c. wherein the offence shall happen: and such justice, upon due proof made upon oath by credible witnesses, or by the confession of the party accused, may cause the said forfeiture to be forthwith paid; and in case of refusal, levy the same by distress and sale of the offenders goods and chattels; and such forfeiture shall be applied one moiety to the
in-

less such information shall be made upon oath before some justice for the county or place, wherein such offence shall be committed, within three calendar months after such offence shall have been committed.

If any person shall think himself aggrieved, by any thing done in pursuance of the act, by any justice as aforesaid, he may appeal to the justices at any general quarter-sessions, within four calendar months after such shall have arisen, such appellant giving fourteen days notice at the least in writing, of his intention to bring such appeal, and of the matter thereof, to the justice; and every other person against whom such complaint shall be made, and within four days after such notice, entering into a recognizance before some justice, with one sufficient surety, conditioned to try some appeal at, and abide the order of the justices at quarter-sessions; and every such justice and person, having received notice of such appeal, shall return proceedings had before them touching the same, to the justices at such sessions, on pain of forfeiting 5*l.* for every neglect; and the justices, upon due proof of the notice given, and of the entering into recognizance as aforesaid, shall hear and determine the causes of such appeal in a summary way, and award such costs to the parties appealing against, as they shall think proper, and the determination of such quarter-sessions shall be conclusive: and no proceedings shall be quashed for want of form, or
re-

removed by certiorari, or other writ whatsoever, except, as before-mentioned, into any court of record at Westminster.

Nothing in this act contained shall extend to that part of Great Britain called Scotland.

If any action or information shall be commenced against any person, for any thing done in pursuance of the act, every such action or information shall be commenced within six calendar months after the fact committed, and shall be laid in the county, riding, or place, where the matter shall arise; and the defendant, in every such action or information, shall, at his general election, plead specially, or the general issue, and give the act and the special matter in evidence: and if a verdict shall be given for the defendant, or if the plaintiff shall be nonsuited, or discontinue his action or information, after the defendant shall have appeared; or if, upon demurrer, judgment shall be given against the plaintiff, the defendant shall recover treble costs, and have such remedy for the same as any defendant hath in other cases by law.

So much of the act of 2 Geo. 3. intituled, an act for the better preservation of the game in that part of Great Britain and England, as relates to heath fowl, commonly called black game, or grouse, commonly called red game, is hereby repealed.

Stat. 13. Geo. 3. c. 80.

An act to repeal the Stat. 10 G. 3. intituled an act for the better preservation of the game within that part of Great Britain called England; and for making other provisions in lieu thereof.

Whereas by the Stat. 10. G. 3. intituled an act for the better preservation of the game, &c. certain penalties and punishments were inflicted on persons killing and destroying game in the night, between one hour after sun-set, and one hour before sun-rise: and whereas some doubts have arisen concerning the construction of some parts of the said act, and some inconveniencies have followed therefrom; therefore, for obviating such doubts, and for remedying such inconveniencies, is it enacted, that, if any any person or persons shall knowingly and wilfully kill, take, or destroy, any hare, pheasant, partridge, moor game, or heath game, or use any gun, dog, snare, net, or other engine, with intent to kill, take or destroy, any hare, pheasant, partridge, moor game, or heath game, in the night; that is to say, between the hours of 7 of the clock at night and 6 in the morning, from the 12th of October to the 12th of February, and between the hours of 9 of the clock at night and 4 in the morning, from the 12th of February to the 12th of October, every such person, being convicted thereof,

thereof, upon the oath or oaths of one or more credible witnesses or witness, before one or more justice or justices of the peace, acting for the county, riding, or place, where the offence shall be committed, shall forfeit and pay, for the first offence, any sum not exceeding 20l. nor less, 10l. and for the second offence, any sum not exceeding 30l. not less than 20l. but in case any information shall be made upon oath, as aforesaid, before any justice or justices, against any person offending against this act, and if it shall appear that such offender hath already been convicted of a first and second offence against this act; then, and in such case, such justice, or justices shall commit such offender to the common gaol, or house of correction, for the county, riding, or place, there to remain till the next general quarter session of the peace for the said county, riding, or place, unless such offender shall have entered into a recognizance, with two sufficient securities, to appear at such general quarter session, then and there to be tried by indictment for the said offence; and also shall and may bind over the informer to prosecute the said offender by indictment as aforesaid: and the justices, at their general or quarter sessions; shall and may direct the said indictment to be tried accordingly; and if upon such indictment such offender shall be convicted, he shall forfeit and pay in court the sum of 50l. and in case he shall neglect or refuse to pay the said 50l. he shall be

committed to the common gaol, or house of correction, for such county, riding, or place, for any term not less than six, nor more than 12 calender months, unless such penalty shall be sooner paid; and such offender shall, if the justices think proper, be once publicly whipped, at the expiration of such commitment, in the town or place where such gaol, or house of correction, shall be, between the hours of twelve and one o'clock.

And the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following, viz.

“ Be it remembred, that on the
“ day of _____ in the year of our
“ Lord _____ A. B. is convicted be-
“ fore me _____ one of his
“ majesty's justices of the peace for the
“ county of _____ (specifying the
“ offence, with the time and place where
“ the same was committed, and also speci-
“ fying that it was the first or second of-
“ fence against this act, as the case shall
“ be.)

“ Given under my hand and seal, the day
“ and year afore said.”

Which conviction the said justice shall cause to be fairly wrote over upon parchment, and returned to the next general quarter session of the peace for the county, riding, or place, where such conviction was made, to be filed by

by the clerk of the peace, and remain and be kept among the records of the county.

Provided always, that it shall be lawful for any clerk of the peace for any county, riding or place, upon application by any person for that purpose, to cause a copy of any conviction, filed by him, to be forthwith delivered to such person, upon payment of 1s. for every such copy.

And that the pecuniary penalties made payable upon any conviction for a first and second offence, and also for a third offence, upon conviction at the quarter sessions; together with the costs and charges previous to and attending such conviction, to be ascertained by the justice, shall be forthwith paid by the person convicted, one moiety of the forfeitures to the informer, and the other to the poor of the parish or place where the offence committed: and in case such person shall refuse or neglect to pay the same, or to give security for the payment thereof, such justice shall, by warrant, under his hand and seal, cause the same to be levied by distress and sale of the offender's goods together with all the costs and charges attending such distress and sale, returning the overplus (if any) to the owner; and it shall be lawful for such justice to order such offender to be detained in safe custody, untill Return may conveniently be had and made to such warrant of distress, unless the party so convicted shall give sufficient security, to the satisfaction of such justice, for his appear-

ance before him; on such day as shall be appointed by him for the day of the return of the said warrant of distress, such day not exceeding 7 days from the time of taking such security; which security the said justice is empowered to take by way of recognizance, or otherwise: but if upon such return no sufficient distress can be had, then, the justice shall commit such offender to the common gaol, or house of correction, for three calendar months, unless the money forfeited shall be sooner paid, or until such offender, thinking himself aggrieved, shall give notice to the informer, that he intends to appeal to the next general quarter session of the peace, and shall enter into recognizance before some justice, with two sufficient securities, conditioned to try such appeal, and to abide the order of and pay such costs as shall be awarded, which notice of appeal, being not less than 14 days before the trial, such person so aggrieved is hereby empowered to give; and the justices, at such session, upon proof of such notice, and of the entering into such recognizance, shall hear the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against, as they shall think proper; and the determination of such quarter session shall be final and conclusive.

And that all the provisions of the said recited act shall be repealed.

And

And that if any person or persons shall, upon a Sunday, or on Christmas-day, in the day-time, knowingly and wilfully take, kill, or destroy, any hare, pheasant, partridge, heath game, or moor game, or shall, upon a Sunday, or on Christmas-day, use any gun, dog, net, or engine, for taking, killing, or destroying, any hare, pheasant, partridge, moor game, or heath game; every such person, being convicted thereof in the manner and form prescribed by this act, shall be subject to the like forfeitures and penalties as are before enacted to be inflicted for other offences against this act.

And that in case any person shall commit an offence against this act, whereby a penalty or punishment is incurred, and dwells in another county than in that in which the offence was committed, the justice before whom such information or indictment was had or made, may direct his warrant of apprehension, and of distress and sale, to any constable within such county, riding, or place, where the offence was committed, to be by him carried to the justice near residing to the place where the offender dwells in such other county, &c. to be signed by him on the back of the said warrant, upon proof on oath of the handwriting of the justice who first granted the warrant; which indorsement shall be sufficient authority for the constable of such parish or township where he dwells, or where his goods and chattels, or distress, are to be had and found, or for
such

such constable who shall bring the said warrant to be indorsed, to apprehend and convey such offender before the justice who first granted the warrant, or any other justice of that county where the offence was committed, or for such constable to levy such penalty, by distress and sale, in the same manner, and with the same powers, as might have been done if the person had lived in the county, &c. where the offence was committed; and also, in case where no sufficient distress can be had or found, to convey the offender before the justices who first granted the warrant of distress, or any other justice or justices of that county where the offence was committed, to be dealt with according to law; and the justice of such other county who indorsed the warrant of distress or apprehension, shall direct such constable, or other person taking and making such distress and sale, to deliver over any sums of money for penalties arising from such distress and sale to the justice of the county who first granted such warrant, to be distributed according to this act: And in case such constable, or other person, shall neglect or refuse to pay such sums of money, or deliver over all proceedings had upon such distress and sale, or warrant of apprehension, such justice who first granted the warrant, or the justice who indorsed it, may commit such constable or other person so refusing or neglecting to account for the sums of money received, or deliver over the proceedings so
had

had thereupon, to the common gaol, or house of correction, for six months, or until the money shall be paid, and the proceedings delivered over to the justice who first granted the warrant; or, in case of his absence or death, or any other justice of the same county, to be distributed according to this act: And that no action of trespass, false imprisonment, information, or indictment, or other action or appeal, shall be brought, sued, commenced, or prosecuted, against the justice of such other county who indorsed such warrant, for or by reason of his indorsing the same.

Provided, That no order or other proceedings, to be had touching the conviction of offenders against this act, shall be quashed for want of form, or be removed by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster.

Provided also, That no person shall be proceeded against for any of the offences aforesaid, unless information shall be made thereof upon oath, before some justice of the peace for the county, riding, or place, wherein such offence shall be committed, within one calendar month after such offence committed.

Stat.

Stat. 16 Geo. 3. c. 30.

An act more effectually to prevent the stealing of deer, and to repeal several former statutes made for the like purpose.

Whereas the statutes in force relating to deer stealers are numerous, and many of them ineffectual; and the good purposes thereby intended might be better effected, if such of them as are defective were repealed, and the good provisions therein, together with further provisions, were reduced into one act; it is therefore enacted, That if any person or persons shall course or hunt, or shall take in any slip, noose, toyle, or snare, or shall kill, wound, or destroy, or shall shoot at, or otherwise attempt to kill, wound, or destroy, or shall carry away, any red or fallow deer, in any forest, chase, purlieu, or ancient walk, whether inclosed or not, or in any inclosed park, paddock, wood, or other inclosed ground, where deer are, have been, or shall be usually kept, without the consent of the owner, or without being otherwise duly authorised, or shall be aiding, abetting, or assisting therein or thereunto, every person so offending, by coursing, hunting, shooting at, or otherwise attempting to kill, wound, or destroy, or by aiding therein or thereunto, shall forfeit, for every offence, 20l. and every person so offending by killing, wounding; or de-

destroying, or by taking in any slip, noose, toyle, or snare, or by carrying away, or by aiding therein respectively, shall, for every deer so wounded, killed, destroyed, taken, or carried away, forfeit 30l. and if the offender in any of the cases aforesaid shall be a keeper of, or person in any manner entrusted with the custody or care of deer, in the forest, chase, &c. where the offence committed, he shall forfeit double the penalty before appointed; and if any person or persons, after having been convicted of any of the aforesaid offences, shall offend a second time, such second offence, whether it be the same as the first, or be any other of the aforesaid offences, shall be deemed and adjudged to be felony, and the person guilty thereof, being lawfully convicted upon indictment, shall be transported 7 years.

And that every person who hath been or, before the commencement of this act, shall be convicted under any statute now in force, for unlawfully hunting, coursing, killing, taking, or carrying away, any deer out of any forest, chase, purlieu, ancient walk, park, paddock, wood, or inclosed ground, shall be subject and liable to the several pains and penalties by such statute provided, as if this act had not been made; and in case any such offender shall, after the commencement of this act, be guilty and convicted of any of the aforesaid offences against this act, (the legal proof of such first or former conviction having been first

first made), every such person shall be adjudged to have committed a second offence against this act, as if this act had been in force at such first conviction, and as if such conviction had been under this act.

And that the justice before whom any person shall, after the commencement of this act, be convicted for the first time of any of the offences above described, shall transmit such conviction, under his hand and seal, to the next quarter session for the county or place, wherein such first offence shall be committed, there to be filed by the clerk of the peace, and kept amongst the records of the peace; and such conviction so filed, or a true copy thereof, certified and subscribed by such clerk of the peace, shall be sufficient evidence to prove the conviction of such first offence.

And that it shall be lawful for any one justice, upon complaint made to him on oath, by any credible person, that there is reason to suspect any person of having in his custody or possession, or in any dwelling-house, out-house, yard, garden, or place, any red or fallow deer, which shall have been unlawfully killed, or the head, skin, or other part thereof, or any slip, noose, toyle, snare, or other engine, for the unlawful taking of deer, by warrant under his hand and seal, to cause such person and persons, and such dwelling-house, out-house, garden, or place, to be searched; and if any red or fallow deer, suspected to have been

nu-

unlawfully killed, or the head, skin, or other part thereof, or any slip, noose, toyle, snare, or other engine, suspected to be used for the unlawful taking or killing of deer, shall be found in his custody or possession, or in such dwelling-house, out-house, garden, or place, to cause the same and such person so having possession, or in whose dwelling-house, out-house, garden, or other place, the same shall be found, to be brought before a justice; and if such person shall not produce before such justice the party of whom he received the same, or satisfy him that he came lawfully by such deer, or the head, skin, or other part thereof, or had a lawful occasion for such slip, noose, toyle, snare, or other engine, or did not keep the same for any unlawful purpose, then every such person shall forfeit any sum not exceeding 30l. nor less than 10l.

And that if any red or fallow deer, suspected to have been unlawfully killed, or the head, skin, or other part of such deer, shall, on a search under a warrant from any justice of the peace, be found in the possession or custody of any person, or in any dwelling-house, out-house, garden, or other place, or shall be proved to have been in the possession, house, out-house, garden, or place, of any person who may be justly suspected to have come dishonestly or unlawfully by the same as aforesaid; and such person so in possession, or the owner or occupier of such dwelling-house, out-house, garden, or

other place, shall not, under the provisions aforesaid, be liable to conviction; then, for the discovery of the party or parties who actually killed or stole such deer, it shall be lawful for any justice having jurisdiction, as the evidence given and the circumstances of the case shall require, to summon before him, at his discretion, every person through whose hands such deer, or the head, skin, or other part thereof so found, shall appear to have passed; and if the person and persons from whom such deer, or the head, skin, or other part thereof, shall appear to have been first received, or who having had possession thereof, shall not give proof, to the satisfaction of such justice, that he, she, or they came lawfully by the same, such person or persons shall, on every conviction, forfeit any sum not exceeding 30*l*. nor less than 10*l*.

And that in case it shall appear, on the oath of a credible witness, that any person hath had in his possession, house, outhouse, garden, or place, any red or fallow deer, or the skin, head, or other part thereof, and shall be reasonably suspected to have come dishonestly or unlawfully thereby, then every such person, and all other persons through whose hands the same shall appear to have passed under the like suspicion, may be proceeded against in like manner, and on conviction shall be subject to the same penalty, as if such deer, or the head, skin, or other part thereof, had been found

found in the possession, house, out-house, garden, or place, of such person, upon a search made under any such warrant as aforesaid.

And that in case any person shall set, lay, or use, any net, wire, flip, noose, toyle, or other engine, for the purpose of taking or killing deer, within or upon any forest, chace, purlieu, or ancient walk, or in the ring, or outer fence or bank dividing the same from the adjoining lands; or in any inclosed park, paddock, wood, or ground, where deer are, have been, or shall be usually kept, such person not being the owner of such forest, chace, purlieu, ancient walk, park, paddock, wood, or ground, or intrusted with the care of the deer within the same, and shall be convicted of any of such offences, every such offender shall forfeit for the first offence, any sum not exceeding 10*l.* nor less than 5*l.* and if afterwards convicted of any of the offences last mentioned, shall, on every conviction after the first, forfeit and pay any sum not exceeding 20*l.* nor less than 10*l.* which said respective forfeitures shall be set at the discretion of the justice or justices before whom the offender shall be convicted of such first or further offence.

And that if any person shall at any time wilfully pull down or destroy, or cause to be wilfully pulled down or destroyed, the pale or pales, or any part of the walls of any forest, chace, purlieu, antient walk, park, pad-

paddock, wood, or other ground, where any red or fallow deer shall be then kept, without the consent of the owner or person chiefly intrusted with the custody thereof, or being otherwise duly authorised, every person so offending shall be subject unto the forfeiture and penalty hereby inflicted for the first offence of killing of any deer.

And that if any person carrying any gun, or other fire-arms, or any sword, staff, or other offensive weapon, shall come into any forest, chace, purlieu, or ancient walk, or into any inclosed park, paddock, wood, or into any other ground where deer are usually kept, be the same inclosed or not inclosed, with an intent unlawfully to shoot at, course, or hunt, or to take in any slip, noose, toyle, snare, or other engine, or to kill, wound, destroy, or take away, any red or fallow deer, it shall be lawful for every ranger or keeper, or person intrusted with the care of such deer, to seize and take from such person and persons, in and upon such forest, chace, purlieu, ancient walk, park, paddock, wood, or other ground, to and for the use of the owner thereof respectively, all such guns, fire-arms, slips, nooses, toyles, snares, or other engines, and all dogs there, brought for coursing deer, in the same and like manner as the game-keepers of manors are impowered by law within their respective manors, to seize and take dogs, nets, or other engines, in the custody of persons not qualified by the laws to keep

keep the same; and if any such person shall there unlawfully beat or wound any ranger or keeper, or his or their servants or assistants, in the execution of his or their office or offices, or shall attempt to rescue any person in the lawful custody of any such ranger, keeper, servant, or assistant, every person so offending shall be deemed and adjudged to be guilty of felony, and on being lawfully convicted on indictment, shall be transported for 7 years.

And that upon complaint or information upon oath, of any one or more credible witness or witnesses, before any one justice having jurisdiction, of any offence committed against this act, it shall be lawful for such justice (except in such cases only where the justice is specially directed previously to summon the party before him) to cause the person, who shall be charged by such complaint or information, to be apprehended by warrant under the hand and seal of such justice, and to be brought before him at such time and place as shall be specified in such warrant, and such justice shall and may proceed to hear the matter of such complaint or information, and to adjudge and determine the same; and in such case where it is provided by this act that the party complained of shall be summoned to appear, if the party so summoned shall not appear, then, upon due proof made of the service of such summons, either personally, or by leaving the same at his dwelling-house, lodgings, or

other usual place of abode, it shall be lawful for the justice, before whom the party was so summoned to appear, to apprehend such party by warrant, and to proceed as if no previous summons had been directed by this act.

And that all the pecuniary penalties of this act shall be recoverable before one or more justice or justices, on proof of the offence, by the oath of one witness, or on confession of the offender; and one moiety of each penalty shall belong to the king, and be paid to such person as the justice shall direct, and the other moiety shall be paid to the informer or informers; and in case of non-payment, with the charges, immediately on the conviction, the said penalty or penalties, and the charges incident, shall be levied by distress and sale of the goods of such offender, by warrant under the hand and seal or hands and seals of the said justice or justices; and for want of sufficient distress, the offender or offenders, except only where it is otherwise provided by this act, shall be sent by the said justice or justices to the common gaol for one whole year, without bail or mainprize, unless the penalty and charges shall be sooner paid.

And that persons convicted may not, by flight or removal, evade imprisonment, it is enacted, That the said justice or justices of the peace may, immediately after such conviction, order him into custody, in case he shall not immediately pay the penalty, during

ing such time, not exceeding three days, as such justice or justices shall allow for the return of the warrant of distress.

Provided always, That if it shall appear to the justice or justices, either by the confession of the party convicted or otherwise, that such party hath not goods sufficient whereon to levy the penalty due, the said justice or justices may, without issuing any warrant of distress, proceed to commit the party convicted, as if a warrant had been issued, and a *nulla bona* returned.

Provided also, That if any person, committed for any first offence shall, before his commitment, procure two sufficient sureties, to the satisfaction of the justice or justices before whom he shall be so convicted, for payment of the penalty or penalties incurred, and charges, within six days, inclusive of the day of conviction, then it shall be lawful for such justice or justices to accept such security, and upon non-payment thereof at the time to be stipulated for that purpose, to cause the party convicted, and his sureties to be apprehended by warrant under his hand and seal, and then to commit to the common gaol, for such time as the party convicted was liable to have been imprisoned in case no such security had been given, unless the penalty or charges shall be sooner paid.

And that it shall and may be lawful for any keeper or under-keeper of any forest, chace, purlieu, ancient walk, paddock, park,

cr

or other ground inclosed, where deer are, have been, or shall be usually kept, and their servants or assistants, to seize and apprehend, upon the spot, any person or persons whom they shall discover in the actual fact of hunting, coursing, killing, wounding, shooting at, taking, destroying, or carrying away, any red or fallow deer from any such forest, chace, purlieu, or ancient walk, whether inclosed or not, or in any inclosed park, paddock, wood, or in any other inclosed ground, or attempting so to do, or in setting or laying any net, wire, slip, noose, toyle, snare, or other engine therein, for the taking, killing, or destroying of deer therein, and to carry such offender or offenders before some neighbouring justice of the peace having jurisdiction, to be dealt with according to law.

And that in case any offender, for his first offence shall, for want of a sufficient distress, be committed to gaol, and shall, whilst in gaol, obtain the consent in writing of the prosecutor, and also of the owner, ranger, forester, keeper, or other person chiefly intrusted with the care of the deer in the forest, chace, purlieu, ancient walk, park, paddock, or place, wherein the offence was committed, for his enlargement; that then the justices of the peace having jurisdiction may, at their quarter general sessions, cause such offender to be brought before them, and thereupon by their order direct the keeper of such gaol to set such offender at liberty.

And

And that any person who shall offend against this act, and shall make discovery of any other person or persons who hath or have offended against the same, so as he, she, or they, be duly convicted; then such discoverer shall be discharged of all the forfeitures and penalties of this act.

And that the conviction of offenders shall be certified by the justice before whom the same shall be made, to the next general quarter sessions of the peace, to be filed amongst the records there; and such conviction shall be fairly written on parchment or paper in the following words, or in any other form to the like effect:

“ Be it remembered, That on the
 “ day of in the year
 “ A. B. was, upon the complaint of C. D.
 “ convicted before of the jus-
 “ tices of the peace for
 “ in pursuance of an act passed in the
 “ year of the reign of his Majesty King
 “ George the Third, for (as the
 “ case shall be).

“ Given under hand and seal,
 “ the day and year above written.”

Which said conviction shall be good and effectual in law, and shall not be quashed, or adjudged insufficient, for want of any form or words.

And, That no certiorari shall be allowed to remove any conviction made, or other proceedings, unless the party convicted shall, before the allowance thereof, become bound
 to

to the person or persons prosecuting in 100*l.* with sufficient sureties as the justice or justices [*shall judge sufficient*] with condition to pay to the prosecutors, within 30 days after such conviction confirmed, on [*or*] a procedendo granted, their full costs, to be ascertained upon their oaths; and shall become also bound to the justice or justices, with such sufficient sureties as such justice or justices shall approve of, in the penalty of 60*l.* for each offence, with condition to prosecute such writ of certiorari with effect, and to pay such justice or justices the forfeitures due by such conviction, or to render the person or persons convicted to such justice or justices within 30 days next after such conviction shall be confirmed, or a procedendo granted; and that in default thereof, it shall be lawful to proceed to the levying of the penalty, as if no certiorari had been awarded.

And, That after the confirmation of any conviction, by any of the superior courts, and delivering the rule to the justice or justices, whereby such conviction is confirmed, it shall be lawful for such justice or justices to proceed against the party convicted, as if a procedendo had been granted.

Provided always, That if any person or persons shall think him, her, or themselves aggrieved, and shall not have removed the matter by certiorari as aforesaid, such person or persons may appeal to the general or quarter sessions of the peace, to be held for the said county, &c. next after the expiration
of

of 20 days from the time of such conviction; but the person or persons so appealing shall give at least 6 days notice in writing to the prosecutor, of such his, her, or their intention, and of the matter thereof, and shall enter into recognizance before some justice or justices of the peace for the county, &c. wherein the conviction or judgment was made or given, with two sufficient sureties, to be approved by the said justice or justices, on condition to appear and try such appeal at the general or quarter session, wherein such conviction or judgment was made or given, next and immediately after the expiration of 10 days from the time of such conviction, and to abide by the order of such court, and for payment of such costs and charges as shall be awarded; and every such appeal shall, by the said general or quarter sessions, be then examined, and the facts and circumstances of the case fully inquired into, and the matter then finally heard and determined; and in case such judgment, determination, or conviction shall be affirmed, the party appealing shall pay unto the prosecutor or prosecutors, his, her, or their full costs, to be ascertained by order of the said sessions.

Provided also, That in case any person or persons, thinking him, her, or themselves aggrieved, shall have paid the penalty, or shall be then imprisoned; every such person or persons may appeal to such judgment, order, determination, or conviction as aforesaid, on entering into recognizance by himself,

self, herself, or themselves only, and without any surety, the said penalty remaining in the hands of such justice or justices, or such person or persons continuing in prison until the merits of the appeal shall be finally determined.

Provided also, That no such conviction, or judgment shall be set aside by the said court, for want of form, or for want of stating, or through the mistating of any matter whatsoever, in case the facts alledged in the said conviction, or on which the same shall be grounded, shall be proved to the satisfaction of the court; but such appeal and appeals shall be decided on the merits of the case only; nor shall such conviction or judgment be removed or removeable by certiorari, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster.

Provided also, That if any person or persons shall be sued or prosecuted for any matter or thing which he or they shall do in pursuance of this act, it shall be lawful to and for the person or persons so sued or prosecuted to plead the general issue, and give the special matter in evidence; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or suffer a discontinuance; or if upon a demurrer judgment shall be given against the plaintiff, the defendant shall have and recover his treble costs, and have the like remedy for the same as any defendant hath in any other case.

And

And that every prosecution shall be commenced within 12 calendar months, but not after, from the time of the offence committed; and that such persons as shall be prosecuted under this act shall not be liable to prosecution for the same offences under any other act, or in any court of attachment, swainmote, eyre, or any forest court.

And that all actions, writs, and prosecutions, upon this act, shall be laid and tried in the county or place where the fact was committed, and shall be commenced within 6 calendar months after the fact committed.

And that this act shall commence and begin to be in force on the 10th day of June, 1776.

The statute then repeals so much of the stat. 13 Rich. 2. c. 13. as inflicts a penalty on those who shall use heys, nets, or other engines, for destroying deer; so much of the stat. 19 Hen. 7. c. 11. as relates to deer; and also so much of the stat. 5 Eliz. intituled, An act for punishing of unlawful taking fish, deer, or hawks, as relates to deer; and also so much of the stat. 3 Jac. 1. intituled, An act against unlawful hunting, and stealing of deer and conies, as relates to deer; and also so much of the stat. 7 Jac. 1. intituled, An act for the explanation of one statute, &c. as relates to deer, except such part thereof as repeals any part of the statutes of the third of James before-mentioned.

The act then repeals the whole of 13 Car, 2. 3 and 4 W. & M. and 5 G. 1. relating

lating to deer; and also so much of the stat. 10 G. 2. as relates to the second conviction of any person or persons for unlawfully coursing, hunting, taking in toyles, killing, wounding, or taking away, any red or fallow deer, in any open or uninclosed forest or chace, or relates to beating or wounding keepers or other officers in forests, chaces, or parks.

Provided always, That nothing contained in this act shall extend to Scotland,

Stat. 25 Geo. III. c. 50.

An act for repealing an act, made in the twenty-fourth year of the reign of his present majesty, intituled, an act for granting to his majesty certain duties on certificates issued with respect to the killing of game; and for granting other duties in lieu thereof.

The act in the first clause repeals the stat. 24 G. 3. c. 43.

2. And enacts, that, From and after the first day of July, one thousand seven hundred and eighty five, there shall be raised, levied, collected, and paid, throughout the kingdom of Great Britain, unto and for the use of his majesty, his heirs and successors, the several rates and duties following; that is to say,

That every person in Great Britain, who shall use any dog, gun, net, or other engine, for the taking or destruction of game
(not

(not acting as a gamekeeper under or by virtue of a deputation or appointment duly registered), shall previously deliver in a paper or account in writing, containing the name and place of abode of such person, to the clerk of the peace, or his deputy, or to the sheriff or steward clerk of the county, riding, shire, stewartry, or place where such person shall reside, and annually take out a certificate thereof:

That upon every piece of vellum or parchment, or sheet or piece of paper, upon which any certificate issued to any such person shall be engrossed, written, or printed, there shall be charged a stamp-duty of two pounds two shillings.

That every deputation or appointment of a game-keeper, granted to any person by any lord or lady of a manor in England, or the dominion of Wales, shall be registered with the clerk of the peace of the county, riding, or place; and every such deputation or appointment, by any proprietor of land in Scotland, shall be registered with the sheriff or steward clerk of the county, stewartry, or place in which the said manor or lands respectively lie, and the gamekeeper so appointed shall annually take out a certificate thereof:

That upon every piece of vellum or parchment, or sheet or piece of paper, upon which any certificate issued to any person under any deputation or appointment of gamekeeper, shall be engrossed, written, or printed,

ed, there shall be charged a stamp duty of 10s. 6d.

3. And it is enacted, That, for the more effectual levying, collecting, and paying the said duty, the same shall be under the government, care, and management of the commissioners appointed to manage the duties charged on stamped vellum, parchment, and paper; who, or the major part of them, are hereby required and empowered to employ the necessary officers under them for that purpose, and to allow such salaries and incidental charges as shall be necessary, and to cause such new stamps to be provided to denote the said duty as shall be requisite in that behalf, and to repair, renew, and alter the same, as there shall be occasion, and do all other things necessary to be done for putting this act in execution, with relation to the said duties in the like, and in as full and ample a manner as they are authorised to put in execution any former law concerning stamped vellum, parchment, and paper.

4. And that, from and after the 1st of July 1785, every person delivering into the office of the clerk of the peace, or his deputy for the county, riding, or place, or if in Scotland, into the office of the sheriff or steward clerk of the county, shire, stewartry, or place where he shall reside, a paper or account in writing, containing the name and place of abode of such person; and every gamekeeper, to whom any such deputation or appointment shall be granted as aforesaid, registering the same in manner aforesaid,
and

and respectively requiring a certificate thereon, shall be annually intituled thereunto; and such clerk of the peace, or his deputy, and such sheriff or steward clerk, shall thereupon issue a certificate, stamped as herein-before is directed, to the effect or form following; that is to say.

“ I A. B. Clerk of the peace for the county of C. (or, as the case may happen to be,) deputy clerk of the peace; or, if in Scotland, I. A. B. sheriff or steward clerk of the county of C. do hereby declare, that E. F. hath this day delivered into my office a paper, writing or account, containing his name and place of abode (or, as the case may happen to be,) hath this day registered a deputation, whereby he is appointed a gamekeeper by
for the manor or lands of

which I do hereby certify, in pursuance of an act of parliament, passed in the twenty-fifth year of King George the third, intituled, an act for repealing an act, made in the twenty-fourth year of the reign of his present Majesty, intituled, an act for granting to his Majesty certain duties on certificates issued with respect to the killing of game; and for granting other duties in lieu thereof.”

5. And that the said clerk of the peace, or his deputy, or the said sheriff or steward clerk, after he shall have signed such certificate, shall forthwith issue the same, stamped as before directed, to the person or

persons respectively requiring the same, and shall, previous to the delivery thereof, be intitled to demand and receive of and from such person is. for his trouble: and in case any such clerk of the peace, or his deputy, or any sheriff or steward clerk, shall neglect or refuse to issue to such person or persons as aforesaid, so delivering in such paper or account in writing, or registering such deputation as aforesaid, a certificate properly marked and stamped as before directed, every such clerk of the peace, or sheriff or steward clerk, shall, for every such offence, forfeit 20l. and be liable to pay to his majesty, the duty payable on such certificate.

6. And that every certificate issued by the clerk of the peace, or his deputy, or by the sheriff or steward clerk, pursuant to this act, shall bear date on the day of the month on which the same shall be issued, and shall endure and remain in force from thence until the first day of July next following the date thereof, and no longer; and if any clerk of the peace, or his deputy, or sheriff or steward clerk, shall issue any certificate to any person otherwise than above directed, he shall forfeit and pay 20l.

7. Provided always, that all certificates which shall have issued on or after the 1st day of March, 1785, in pursuance of the said herein before recited act, shall endure and remain in full force for and during the time for which the same were granted, and until the 1st day of July, 1786.

8. That

8. And that from and after the 1st of July 1785, if any person or persons shall use any greyhound, hound, pointer, setting dog, spaniel, or other dog, or any gun, net, or other engine, for the taking or destruction of any hare, pheasant, partridge, heath fowl, commonly called black game, or grouse, commonly called red game, or any other game whatsoever, without having obtained such certificate, as before is directed, every such person or persons shall forfeit 20l. to be recovered and applied as herein-after mentioned.

9. And that, from and after the 1st of July 1785, if any person to whom any deputation or appointment of a game-keeper shall have been, or at any time thereafter shall be, granted by any Lord or Lady of a manor in England, or Wales, or by any proprietor of land in Scotland, shall, for 20 days next after the said 1st of July 1785, or for 20 days next after such deputation or appointment shall thereafter be first granted, neglect or refuse to register the same, and take out a certificate thereon, as before directed, such person, not having obtained some certificate in pursuance of this act, shall forfeit 20l. to be recovered and applied as herein-after mentioned.

10. Provided, That nothing herein contained shall make it necessary for any of the royal family to take out any such certificate, or shall restrain any persons appointed or deputed by them, from the using any dog, gun, net, or other engine, within the forests, chaces,

chaces, parks, warrens, or other royalties to them belonging.

11. And, That the clerks of the peace, or their deputies, or the sheriff or steward clerks in their respective counties, ridings, shires, stewartries, or places, shall, on or before the 1st of November 1785, or sooner, if required by the commissioners, transmit to the head office of stamps in London, a correct list, in alphabetical order, of the certificates by them issued between the 25th of March 1785, and the 1st of October, in the same year; and shall also, in every subsequent year, on or before the 1st of August, whenever they shall be thereunto required by the commissioners, make out and transmit to the head office of stamps in London, correct lists, in alphabetical order, of the certificates so issued by them, distinguishing the duties paid on each respective certificate so issued; and on the delivery thereof, the receiver general of the stamp-duties shall pay to every such clerk of the peace, or his deputy, or to every such sheriff or steward clerk, for the making out such list, after the rate of one halfpenny for the name of every such person to whom such certificate shall have been issued, and which shall be inserted in such list; and in case any clerk of the peace, or his deputy, or any sheriff or steward clerk, shall neglect or refuse to make out lists as aforesaid, or shall not insert in such list a full, true, and perfect account, as before directed, of all the persons the
same

same ought to contain, then, in every such case, every such clerk of the peace, or his deputy, and sheriff or steward clerk, shall, for every such offence, forfeit 20l.

12. And, That all the said several lists, upon such transmission thereof as aforesaid, shall be deposited and kept at the said head office of stamps in London, and shall and may, within the office hours, be resorted to and inspected by any person whatsoever, on payment of one shilling, and no more.

13. And, That the commissioners shall, once or oftener in every year, as soon as conveniently may be after the said lists shall have been so transmitted to them, cause the same to be inserted in the newspapers circulating in each respective county, or in such public newspaper as to them shall seem most proper.

14. And whereas deputations or appointments of gamekeepers, granted as before, may be revoked, it is therefore enacted, That if any lord or lady of a manor in England or Wales, or proprietor of land in Scotland, shall make any new deputation or appointment of a gamekeeper, in the room of the person already appointed, and to whom any such certificate hath been issued, and shall register such new deputation or appointment with the clerk of the peace, or his deputy, or sheriff or steward clerk of the county, &c. in which the manor or lands shall be situate, and shall obtain a new certificate thereon, the first certificate granted shall be null and void ;

void; and the person acting under the same, after notice to him given of such new and other certificate, shall be liable to the penalties prescribed by this act, as if no certificate had been granted.

15. And, in order to prevent the evading the payment of the duties hereby granted, and to facilitate the detection of offenders, by compelling the production of the said certificates to persons authorised to demand inspection of the same, it is enacted, That if any person or persons shall be found using any dog, gun, net, or other engine, for the taking or destruction of game, by any other person who hath obtained a certificate, it shall and may be lawful for such other person, producing such certificate, to demand and require from the person so using such dog, gun, net, or other engine as aforesaid, to produce and shew a certificate issued to him for that purpose; and every such person shall, upon such demand and requisition, produce such certificate to the person so demanding the same, and permit the same to be inspected accordingly; and if any such person shall wilfully refuse to produce and shew a certificate issued to him, or, not having produced and shewn such certificate, shall refuse, on demand thereof, to give in his christian and surname, and the place of his residence, or shall give in any false or fictitious name or place of residence, every such person so offending shall forfeit 50l.

16. And

16. And that the certificate directed to be issued by the clerks of the peace, or their deputies, in England, or by the sheriff or steward clerks in Scotland, shall not authorise or enable any person to use any greyhound, hound, pointer, setting dog, spaniel, or other dog, or any gun, net, or other engine for the taking or destruction of game, at any time or times, or in any manner prohibited by any law now in being; nor shall give to any person any right to use any greyhound, hound, pointer, setting dog, spaniel, or other dog, or any gun, net, or other engine for the taking or destruction of game, unless such person shall be duly qualified by virtue of the game laws, but shall be liable to the same penalties, as if this act had not been made.

17. And that no certificate, obtained under any deputation or appointment of a gamekeeper, shall be pleaded or given in evidence in any case, where the person having such certificate shall have used or shall use any greyhound, hound, pointer, setting dog, spaniel, or other dog, or any gun, net, or other engine for the taking or destruction of game, out of or beyond the precincts or limits of the manor or lands for or in respect of which such deputation or appointment was given and made.

18. That every person residing in such cities and towns that are counties, and having no clerk of the peace, shall and may deliver in the paper or account in writing,
to

to the office of the clerk of the peace, or his deputy of any county, riding, or place adjoining to such city or town, who is hereby directed and required to issue his certificate to the person applying for the same, as before directed, as if the person resided in the county of such clerk of the peace; and upon neglect or refusal to issue such certificate, such clerk of the peace shall be liable to the same penalties as if he had refused or neglected to issue such certificate to any person applying for the same, resident in the same county.

19. And that if any person shall counterfeit or forge, or procure to be counterfeited or forged, any seal, stamp, or mark, for the purpose of denoting the duties by this act granted, or shall counterfeit or resemble the impression of the same, with an intent to defraud his majesty, of the duties, or shall utter, vend, or sell, any vellum, parchment, or paper, with such counterfeit mark or stamp thereupon, knowing such mark or stamp to be counterfeit; or if any person shall fraudulently use any seal, stamp, or mark, directed or allowed to be used by this act, with intent to defraud his majesty, of any of the said duties; every person so offending, and being thereof convicted, shall be adjudged a felon, and shall suffer death as in cases of felony, without benefit of clergy.

20. And that all powers, and other matters and things prescribed by former acts relating to the stamp-duties, shall be in full force

force and effect with relation to the rates and duties hereby imposed, and shall be put in execution for the raising, levying, collecting, and securing the rates and duties hereby imposed.

21. And that all pecuniary penalties may be sued for in any of his majesty's courts at Westminster, for offences committed in England, Wales, or the town of Berwick upon Tweed, and in his majesty's court of sessions, court of justiciary, or court of exchequer in Scotland, for offences committed in Scotland, by action of debt, bill, plaint, or information, wherein no essoin, protection, privilege, wager of law, or more than one imparlance, shall be allowed, and wherein the plaintiff, if he or she shall recover any penalty or penalties, shall recover the same for his or her own use, with costs of suit.

22. Provided, That from and after the said 1st of July, 1785, it shall be lawful for any one or more justice or justices of the peace of the county or place wherein any offence shall be committed, upon information or complaint to him or them made, to summon the party or parties accused, and also the witnesses on either side, to appear before him or them; and upon the appearance of the party or parties accused, or in default of his, her, or their appearance according to such summons, to proceed to hear and determine the matter in a summary way; and upon due proof made thereof, either by the

Z

volun-

voluntary confession of the party or parties accused, or by the oath of one or more credible witness or witnesses, to give judgment or sentence for the penalty or forfeiture, and to award his warrants under his hand and seal, for the levying any pecuniary penalties and forfeitures so adjudged on the goods of the offender, and to cause sale to be made thereof, in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and where sufficient goods of such offender cannot be found, to commit such offender to the common gaol, or house of correction, there to remain for six months, unless such penalty shall be sooner paid; and persons aggrieved may, upon giving security to the amount of such penalty and forfeiture, together with such costs as shall be awarded, in case such judgment shall be affirmed, appeal to the justices of the peace at the next general quarter sessions for the county, riding, or place, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and if the judgment of such justice shall be affirmed, the justices may award the person or persons to pay costs occasioned by such appeal, as to them shall seem meet.

23. And that if any person shall be summoned as a witness either on the part of the prosecutor, or of the person accused, and shall neglect or refuse to appear, without a reasonable excuse, to be allowed of by
such

such justice or justices, that then every such person shall forfeit, for every such offence, 10l. to be levied and paid as before directed.

24. And that the justice or justices, before whom any offender shall be convicted, shall cause the conviction to be made out in the manner and form following, or in any other words to the same effect, *mutatis mutandis*, viz.

“ Be it remembered, That on the
 “ day of in the year
 “ of our lord at
 “ in the county of A. B.
 “ came before me C. D. one of his majesty’s
 “ justices of the peace for the said county,
 “ residing near the place where the offence
 “ was committed, and informed me that E.
 “ F. of on the day of
 “ now last past, did use a gun, dog, net, or
 “ other engine, (as the case may be) for the
 “ taking or destruction of game, and did
 “ thereby and therewith take, kill, and de-
 “ stroy, a hare, or other game, (as the case
 “ may be), [here set forth the fact for which
 “ the information was laid], without having
 “ the certificate required by law for that
 “ purpose; whereupon the said E. F. after
 “ being duly summoned to answer the said
 “ charge, appeared before me, and having
 “ heard the charge contained in the said in-
 “ formation, declared he was not guilty of
 “ the said offence; (or, as the case may
 “ happen to be), did not appear before me
 Z 2 “ pur-

“ pursuant to the said summons, (or did
 “ neglect and refuse to make any defence
 “ against the said charge, but the same being
 “ fully proved upon the oath of G. H. a
 “ credible witness, (or, as the case may
 “ happen to be), acknowledged and volun-
 “ tarily confessed the same to be true; and
 “ it manifestly appearing to me that he the
 “ said E. F. is guilty of the said offence charg-
 “ ed upon him in the said information; I
 “ do therefore hereby convict him of the
 “ offence aforesaid, and do declare and ad-
 “ judge that he, the said E. F. hath forfeit-
 “ ed the sum of _____ of lawful
 “ money of Great Britain, for the offences
 “ aforesaid, according to the form of the
 “ statute in that case made and provided.

“ Given under my hand and seal, the
 Day of _____

25. Provided that the said justice or justi-
 ces may mitigate and lessen any such pe-
 nalties as he or they shall think fit, reason-
 able costs and charges of the officers and in-
 formers, as well in making the discovery as
 in prosecuting the same, being always allow-
 ed over and above such mitigated penalty,
 and so as such mitigation do not reduce the
 penalties to less than a moiety, over and
 above the said costs; and no such conviction
 shall be removeable by *certiorari* into any
 court whatsoever.

26. Provided that nothing in that act
 contained shall extend to subject any person
 to a longer imprisonment than three calen-
 dar

dar months, for nonpayment of any fine or penalty of this act.

17. And that the several duties herein-before granted shall be paid into the hands of the receiver general of the duties on stamped vellum, &c. who shall keep a separate account of the several rates and duties, and pay the same (the necessary charges of raising, paying, and accounting, being deducted) into the exchequer, at such time and in such manner as the duties charged on stamped vellum, &c. are paid; and that in the office of the auditor shall be kept a book or books, in which all the monies shall be entered separate and apart from all other monies; and the said money shall be a fund for payment of the annuities, and such other charges as are directed to be paid pursuant to an act of the last session, intituled, an act for raising a certain sum of money by way of annuities, &c.

28. And that if any person shall be sued, molested, or prosecuted, or any thing done in pursuance of this act; such person may plead the general issue, and give the special matter in evidence: and if upon the trial a verdict shall pass for the defendant, or the plaintiff become nonsuited, then such defendant shall have treble costs.

OBSER-



OBSERVATIONS

UPON THE

STATUTES

MADE FOR

The Preservation of the Game.

WE shall now proceed to such observations upon the statutes made for the preservation of game, as will lead the reader to a clear and certain understanding of such as are now in force and use; and the first subject that seems to offer itself is that of the office, qualifications, and power of a game-keeper, and his indemnity in the execution of his office.

Qualification of game-keepers, and their power in searching for and seizing guns, dogs, and game.

This subject divides itself into several particulars—1. the method of appointing him,
—2. his

—2. his qualifications,—3. his power,—4. his indemnity.

First—*The method of appointing him.*—The deputation or authority must be properly executed, that is, signed and sealed by the lord of the manor, and an entry made of such appointment with the clerk of the peace of the county, riding, or division, wherein the manor lies.

Secondly—*The qualifications necessary for a game-keeper, with power to kill and destroy game.*—These are, by the stat. 3 G. 1. c. 11. p. 137. either, 1. a qualification by estate, or otherwise, to kill game absolutely in his own right: (which game-keeper, it seems by the stat. 9 Ann, c. 25, s. 1. p. 110. need not be entered with the clerk of the peace) or, 2. if such person is not so qualified to kill game, he must be truly and properly a servant to the lord or lady of the manor, or must be immediately employed and appointed to take and kill game for the sole use of such lord or lady. The reason for this part of the qualification is pointed out in the preamble of the said act of the 3 G. c. 11. which recites, “Whereas it is become usual
“for lords and ladies of manors to grant
“deputations to the farmers, tenants, and
“occupiers of the lands and estates within
“their manors, to be game-keepers, with
“power to destroy game; which practice
“is a very great abuse of the powers intended by the said acts [5 Ann, c. 14.
“and 9 Ann, c. 23.] to be granted, and
“tends

“ tends very much to the destruction of “ game.” This clearly shews the meaning of this part of the act, and indicates what description of persons cannot be legal game-keepers, with power to kill game. And persons so circumstanced should be cautious how they are seen to kill game, and how they interrupt those who are unqualified; for although it is clear that game-keepers, properly qualified agreeable to this and other acts, are authorized to interrupt unqualified persons, yet it is equally true, that game-keepers who are not so qualified would be amenable to the laws, if they were to do so. But in Mich. 9 G. 3. it was adjudged that a lord of a manor may appoint a game-keeper, with power to kill game, though he is neither a person qualified, nor a menial servant of the lord, (for a man may be *truly and properly a servant* without being a menial servant); and such game-keeper hath a right to carry a gun any where, though out of the manor; and though he kills game, or sports out of the manor, his gun cannot be taken from him; but if he kills game out of the manor, he is liable to the penalty. Mic. 2 Wils. 387, and 2 N. Abr. 617.—

3. The being entered with the clerk of the peace is a qualification so far, that if a game-keeper, whose name is not so entered, or who shall not be otherwise qualified by the laws of this kingdom to kill game, shall kill, sell, or expose to sale, any hare, pheasant, partridge, moor, heath game, or grouse,
 he

he shall be liable to a penalty of five pounds, or (in default of payment) to imprisonment for three months. 9 Ann, c. 25. s. 1. p. 110.

Thirdly—*The powers with which he is invested.*—The first power which is given to him, is by the stat. 22 & 23 Car. 2. p. 69. whereby he is impowered to take and seize guns, bows, greyhounds, setting-dogs, lurchers, &c. of persons unqualified. And here it is to be observed, that it doth not appear that before the stat. 22 & 23 Car. 2. p. 68. lords of manors had any power to appoint game-keepers with authority to take and seize engines and dogs that were made use of for the destruction of game; nor does it appear that a power is by any law antecedent to the 5 Ann, c. 14. p. 105. given to the lords themselves to exercise that power of seizing engines and dogs, which they could then invest their game-keepers with. It may indeed be argued, that as the act of the 22 & 23 Car. 2. enables lords of manors to give that power to their game-keepers, they must first have had that power in themselves, or they could not have given it to another; but then it should be observed, that the power and authority of the game-keeper is given to him by the statute, and not by the lord, who is nothing more than a medium through which the power passes from the statute to the game-keeper. And as lords of manors had no power themselves to seize guns or other instruments before

fore the said 5 Ann, c. 14. that power was invested solely in the game-keeper, who alone could lawfully do it. Since which statute, not only the game-keepers, but justices of the peace in their respective jurisdictions, and lords and ladies of manors, have the power invested in them.

It has been much disputed whether justices of the peace, lords of manors, and gamekeepers have power to seize the guns or dogs of unqualified persons, who are beating for game within their jurisdiction or manors: but this seems to have a perfect solution, if with respect to the gamekeeper we appeal to the statute of the 22 and 23 Car. 2. p. 68. and with respect to the power of justices of the peace, and lords or ladies of the manor, to the stat. 5 Ann. c. 14. p. 105.

This power of seizing, with respect to the gamekeeper, seems to consist of one branch only, and with respect to justices of the peace and the lords of manors, of more than one. The gamekeeper seems to be empowered by the stat. 22 and 23 Car. 2. f. 2. in the first place to take and seize all such guns, bows, greyhounds, setting dogs, lurchers, or other dogs to kill hares or conies, ferrets, tramels, lowbels, hayes, or other nets, harepipes, snares, or other engines for the taking and killing of game, as shall be used within the precincts of his manor by unqualified persons; by which branch of the statute it seems that he has power to seize the gun or dog of any unqualified person he shall

shall find using the same within the manor : and in the second place, that the gamekeeper, or any other person or persons (being thereunto lawfully authorized by warrant under the hand and seal of any justice of the peace of the same county, division, or place) may in the day time search the houses, outhouses, or other places of unqualified persons, and seize, detain, and keep to the use of the lord, or otherwise destroy such dogs, and engines as aforesaid. Whereas, with respect to a justice of the peace, and lord or lady of a manor, their power seems to extend only to the taking of such things from the persons of those who are unqualified, without the power of searching their houses : at least no express power of entering and searching is given to them by the statute. And again, with respect to the various powers of gamekeepers, justices of the peace, and lords and ladies of manors, it is to be observed, that gamekeepers are empowered to seize *dogs, guns, and other instruments* only : whereas the power of the justices, and lords and ladies of manors, extends also to the seizing and keeping of *game* in the custody or possession of unqualified persons, 5 Ann. c. 14. s. 4. p. 105.

It should also be observed, that there are two different species of gamekeepers, and that the stat. 22 and 23 Car. 2. p. 68. authorises the one, and the stat. 5 and 9 Ann. the other. The first are usually said to have a preserving deputation, and the second a killing

ing deputation : for the stat. 22 and 23. Car. 2. empowers lords of manors to appoint one or more gamekeeper or gamekeepers (who need not be entered with the clerk of the peace) with power to seize dogs or engines ; but gives him no power to kill game : where, as the other stat. 5 and 9 Ann. c. 14. for the first time empower gamekeepers (who are to be entered with the clerk of the peace) to kill game ; but say nothing of their power to seize the dogs and engines of persons unqualified, for which we must recur to the said stat. of the 22 and 23 Car. 2.

And as to gamekeepers who are empowered to kill game, it is also observable, that the stat. 5 Ann. c. 14. made it lawful for lords or ladies of manors to empower more than one gamekeeper to kill game ; but as this was found to tend to the destruction of game, the 9 Ann. c. 25. after reciting, that by the act of the 5th of Ann, any lord or lady of a manor might appoint several gamekeepers in the same manor, and every one of the gamekeepers so appointed might kill any game in the manor, enacted, that no lord or lady of a manor should appoint above one person to be a gamekeeper within any one manor, with power or authority to kill or destroy the game thereof, and thus the matter stands at this day.

The power gamekeepers have to kill game, as was observed before, is given by the act of the 5 Ann. c. 14. f. 4. which authorises them to kill hare, pheasant, par-

A a

tridge,

tridge, or any other game whatsoever: but this privilege is defined by the statute; for the game so killed is not in his disposal, but must be killed for the *sole* use and immediate benefit of the lord of the manor (3 G. 1. c. 11. p. 197.) And this act of the 5 Ann. further enacts, that if gamekeepers shall sell or dispose of game without the *lord's consent or knowledge*, and be convicted, they shall be committed to the house of correction for 3 months, to be kept to hard labour. [p. 106.]

It seems by this act, that gamekeepers authorised to kill game, may, *with the consent or knowledge* of the lord of the manor, sell and dispose of game; but this, by the stat. 28 G. 2. c. 12. s. 4. p. 163. is prohibited both with respect to qualified and unqualified persons, under a pecuniary penalty.

Indeed the stat. 1. Jac. 1. c. 27. s. 4. p. 51. partially provided against this evil, by imposing a penalty upon persons, who shall sell, or buy to sell again, any deer, hare, partridge, or pheasant, except partridges and pheasants reared or brought up in house or houses, or brought from beyond the seas. This, however, being an imperfect provision against the evil, occasioned the making the above stat. of 28 G. 2. which enacts, that if any person or persons whatsoever, whether qualified or not qualified to kill game, shall sell, expose, or offer to sale any hare, pheasant, partridge, moor, heath game, or grouse, every such person or persons shall, for every such offence, forfeit for every hare, &c. five pounds,

pounds, or (for want of a sufficient distress) be imprisoned for 3 months; and in order to bring the matter effectually home, the stat. of 9 Ann. c. 25. enacts, that if game be found in the shop, house, or possession of an unqualified person, unless he be entitled to it under some person so qualified, the same shall be adjudged, deemed, and taken to be an exposing thereof to sale. And the act of the 28 G. 2. in order, if possible, to cut off all power of selling by poulterers, salesmen, fishmongers, cooks, or pastry-cooks, enacts, that if any game shall be found in the shop, house, or possession of such persons (without a word about qualifications, or right to it under persons qualified) the same shall be deemed an exposing thereof to sale.

Now again with respect to the gamekeepers power of *searching*, it hath been adjudged that an authority from a lord of a manor, is not of itself sufficient for the purpose, but that he ought to have a warrant from a justice of the peace. Comb. 183. *Carpenter and Adams*. At least Dr. Burn observes upon stat. 22 and 23 C. 2. s. 2. it may be safe to have such warrant, especially if any houses are to be entered and searched. And it is the Doctor's opinion, that it would give too great power to the gamekeepers to leave it in their discretion to search what places they shall think proper, as also to constitute them the judges, whether such or such a person is or is not qualified to kill game. Therefore (says he) it is best to have a warrant from a

justice of the peace, after information and oath of the officer first made. 2 Burn 226. It seems that the Doctor might have saved himself the trouble of giving his opinion, if he had consulted the latter part of the same section, which expressly directs the authority of a justices warrant, where an entry is to be made into houses, outhouses, or other places of persons unqualified: and further directs, that there should be good ground of suspicion before such search is made, which no doubt should sufficiently appear to the justice before he grants his warrant. [p. 69.]

It has not only been doubted whether gamekeepers have a right to seize the guns or dogs of unqualified persons when beating for game; but those who conceive they have such a power, doubt how far the gamekeeper ought to shew his authority, before he presumes to invade the property of the offender, and how far the offender is justifiable in resisting him.

In answer to this, it should be observed, that it seems reasonable, that whoever is invested with an authority by another, should, in the execution of the power given to him, satisfy the party with or against whom that power is to be executed, that he is legally invested with such authority and power.— If this were not to be the case, a door would be opened for numberless inconveniencies and oppressions.

Let us, however, compare this case with arrests in civil cases, where it is to be observed

served that a distinction is made between a special bailiff, and a sworn and known bailiff; and it is said, that if a special bailiff, upon arresting a man, does not shew his warrant upon a demand for that purpose, the arrest is held to be a false imprisonment, and the party may make resistance and needs not obey it: but if he is a known and sworn bailiff, acting within his own precinct, he need not shew his warrant, but he ought to acquaint the party with the substance of it, 2 Hawk. 85, 86.

It has just been observed, that in arrests, in civil cases, the party may make resistance if a special bailiff does not shew his authority; but let it be observed as to that point, that it has been held that the officer need not shew his warrant unless the party first submits peaceably to the arrest: from whence it seems to follow, even in those cases, that a submission ought to be first made, before resistance * can be justified.

And it should also be observed, that the reason given why a known bailiff need not shew his warrant is, that all persons are

* It seems that all resistance to gamekeepers, by unqualified persons, is, in the first instance, unjustifiable. It may indeed be said, that if resistance is not to be made, thieves may, under the colour of authority, rob men of their property. But those who thus object should recollect, that according to the present system of laws relating to the game, they are, at the time of their resistance, offenders against the law; and if any inconvenience may arise from this misconduct of theirs, they must bear the consequences.

bound to take notice, that he is a bailiff.
9 Rep. 69. 5 N. Abr. 169.

And this case of a sworn and known bailiff seems very similar to the present case of a gamekeeper. Gamekeepers are public officers within the manor of their lord, and derive their authority from acts of parliament; and if the case were solemnly argued, it might probably appear that they have full power to execute the charge the statute has given to them, without being compellable to shew the authority by which they act. Every one seems, by reason of the notoriety of his office, bound to take notice, that he holds that office, and the implication of law seems to be, that every one does know it.

But as the law has invested gamekeepers with authority, so it behoves gamekeepers to use that authority lawfully and peaceably, especially towards qualified persons. For if they are interrupted by them, or if gamekeepers otherwise exceed their power, the law, which is ever jealous of innovations, will severely reprehend such offenders.

Qualifications are derived from the highest authority—the sanction of parliament; and the privileges allowed by the qualification acts are, as far as they go in affirmance of the good old law of the land: and therefore the law will protect qualified persons, while they endeavour to assert their right in a lawful way; whereas the power given to gamekeepers, is a new and extraordinary power,
un-

unknown to the ancient and fundamental laws of this country : the common law will therefore miss no opportunity of resertring any exercise of this power, where it goes beyond the precise bounds which the statute law has limited for it.

We shall close the doctrine of seizures, by observing, that by the 4th and 5th of W. 3. c. 23. p. 80. Constables authorised by a justice's warrant may enter into and search (in such manner, and with such power, as in case where goods are stolen, or supposed to be stolen) the houses, outhouses, or other places belonging to such houses of suspected persons not qualified ; and if any game upon such search shall be found, and if the person shall not satisfy the justices how he came by the same, he shall for every hare, or other game, forfeit any sum not under 5s. nor exceeding 20s. half to the informer, and half to the poor.

But observe, that although this act authorises constables to search, it gives them no express power to seize any thing they shall find.

Lastly—*As to the gamekeeper's indemnity in the execution of his office.*—The stat. 4. and 5. W. and M. c. 23. enacts, that “ to the end all keepers and gamekeepers, duly authorised by the act of K. Charles, may be indemnified in the execution of the said office, all lords of manors or other royalties, or any person or persons authorised by them as game-

gamekeepers, shall and may, within their respective manors or royalties, oppose and resist offenders in the night time, in the same manner, and be equally indemnified for so doing, as if such fact had been committed within any ancient chase, park, or warren, inclosed whatsoever."

Of the qualifications by estate or degree to keep dogs, nets, and instruments, to kill game.

There have been five several qualification acts made between the 13th year of King R. 2. and the 22d and 23d of Car. 2. when the last was made; and the amount of the qualification has gradually increased as the value of money has been lessened. And it is said that these several acts are now in full force, so that it is in the power of the prosecutor to convict upon either of them; for instance, the stat. 5 Ann. c. 14. enacts, that if persons not qualified (by the 22 and 23 Car. 2.) to kill game, they shall forfeit 5l. And the stat. 13 R. 2. enacts, that persons keeping dogs, &c. not having 40s. a year, shall be punished by a years imprisonment; so that persons who have not 40s. a year may be prosecuted upon either of these statutes; but persons having more than 40s. a year can be prosecuted only upon the 22 and 23 Car. 2. and the 5 Ann, c. 14. and so of the others.

1. The

1. The first of these qualifications was to be 40s. a year by laymen, and 10l. a year by clergymen. 13 R. 2. ft. 1. c. 13.

2. The second, by the 1 Jac. c. 27. f. 3. was to be 10l. a year of an estate of inheritance, or 30l. a year of a lives estate, or goods of the value of 200l. or to be the son of a knight or lord, or the son and heir apparent of an esquire.

3. The third, by the 3 Jac. 1. c. 13. f. 5. which relates only to deer and conies, was to be 40l. a year of hereditaments, or goods worth 200l.

4. The fourth qualification relates to pheasants and partridges only, which gives power to take pheasants and partridges by free warreners, lords of manors, or freeholders of 40l. a year of inheritance, or lives estate of 80l. or worth in goods 400l. 7 Jac. c. 11. f. 7.

5. The last general qualification, as before observed, is by the 22 and 23 Car. 2. c. 25. which enacts, that "every person, not having lands and tenements, or some other estate of inheritance, in his own or his wife's right, of the clear yearly value of 100l. per annum, or for term of life, or having lease or leases of ninety-nine years, or for any longer term, of the clear yearly value of 150l. other than the son and heir apparent of an esquire, or other person of higher degree; and the owners and keepers of forests, parks, chaces, or warrens, being stocked with deer or conies for their necessary

fary use, in respect of the said forests, parks, chaces, or warrens, are hereby declared to be persons by the laws of this realm not allowed to have or keep for themselves, or any other person or persons, any guns, bows, greyhounds, setting dogs, ferrets, coney dogs, lurchers, hayes, nets, lowbels, harepipes, snares, or other engines aforesaid, but shall be, and are hereby prohibited to have, keep, or use the same."

We will now consider the several branches of this section, in order to understand properly the nature of the qualifications which this act makes necessary.

The first part of the section goes upon a qualification by estates of INHERITANCE, whether the same be in the party's own right, or in the right of his wife; and these must be of the clear value of 100l. per annum. By estates of inheritance we are to understand estates which may be inherited, or, in other words, estates which may descend from the ancestor to the heir, by the act and operation of the law; and therefore estates for life or years, let the number be ever so great, are excluded from this part of the qualification, they being neither of them inheritable estates. But copyholds of inheritance are certainly included, for the act makes no distinction whatever as to freeholds and copyholds, but uses the general word *estates of inheritance*, which words are applicable equally to freeholds and copyholds; from whence it is clear that a
copyhold

copyhold of inheritance, of the clear yearly value of 100l. is a good qualification within the statute. And estates of inheritance, so far as serves our present purpose, are of two sorts or species:—Estates of inheritance in fee simple, and estates of inheritance in fee tail; and these again into hereditaments corporeal and incorporeal. The former of these, viz. the estate in fee simple, is where an estate is given or conveyed to a man and his heirs for ever, without any restriction as to the nature of those heirs, but absolutely, generally, and simply; and this is the highest estate in law a man can have. Estates in fee tail (or, as they are generally called, “intailed estates;”) are such as are given or conveyed to a man and the heirs *of his body*, which is an estate tail *general*, or to the heirs of his body lawfully begotten on such a woman, which is *special*. So that the having of either of these estates in a man’s own right, or in the right of his wife, of the clear yearly value of 100l. is a good qualification.

As to the distinction between estates of inheritance, corporeal and incorporeal, it consists in this, that estates corporeal are the objects of our bodily senses, as houses, lands, and the like; but an incorporeal hereditament is merely a right issuing out of a thing corporate, or concerning, or annexed to, or exercisable within the same, and has its existence merely in idea, and abstracted contemplation, though its effects and profits may be frequently

quently the objects of our bodily senses*, with regard to which a man may, in some instances, have an estate of inheritance, and consequently if a man has the clear yearly value of 100*l.* arising from them, he seems by this act to be duly qualified. To some of my readers this may appear strange, and therefore I shall state my reasons, observing that there are two expressions in the act which justify my suggestions: these are, 1. The word “tenements” which word signifies any thing that may be *holden*, and comprehends all corporeal hereditaments whatever; and also all incorporeal, which savour of the reality, that is, which issue out of corporeal ones. Blackst. And, 2. The alternative following, or some other, “estate of inheritance” which word comprehends (as was before observed) all estates which may be *inherited*, or which may descend from the ancestor to the heir. Both of which expressions are applicable in many instances to incorporeal estates.

The next observable part of the statute is, that it is a good qualification, if held “*in right of the wife*,” by which we are not to understand the case of a tenant by the curtesy, but the case of a man whose wife is living, and possessed of an estate of inheritance of the above value; for then only a man is said to be “intitled in right of his wife.” Co. Lit. 351.

* Incorporeal hereditaments are of ten sorts, viz. advowsons, tithes, commons, ways, offices, dignities, franchises, corodies or pensions, annuities, and rents. Blackstone.

“—Of the clear yearly value of 100l. per annum.” By the word “clear” it seems to intend that the estate shall produce 100l. per annum, after the payment of all taxes chargeable upon the landlord, by authority of parliament: so that the estate must produce 100l. after payment of the land tax. And it has been a prevailing opinion, that in order to be qualified, a person must be assessed at 100l. a year to the land tax; but this does not seem to be required by the statute.

It has been a question how far estates, which are incumbered with mortgages, rent, charges, &c. are affected with regard to the qualification. The question that arises upon this subject is, how far the interest payable by the mortgager to the mortgagee is a charge upon the estate, so that (if it does not produce 100l. per annum clear of the interest;) it can affect the qualification? and the 2d, arises upon the point of law, that the legal estate is in the mortgagee after breach of the proviso, and then the question will be which of the two parties is qualified after that breach, the mortgager or mortgagee.

As to the first of these questions, it is to be observed, that though the payment of interest is prima facie, a personal thing; yet in the case of mortgages, it seems to be a charge upon the land in an equitable point of view, inasmuch that a man cannot redeem his estate in equity, without paying all arrears of interest, as well as the principal

B b

money :

money : but, nevertheless, the payment of interest seems to be a matter merely personal; and does not by any means arise or issue out of the mortgaged estates. We may therefore safely infer, that a man who has an estate of inheritance which produces 100*l.* per annum, and pays interest for a mortgage on it, has a clear 100*l.* per annum, according to this statute, and is therefore certainly qualified to kill game, before breach of the provisoe.

As to the second of these questions, which is qualified after breach of the provisoe, the mortgager or mortgagee?—it seems necessary to inquire into the import of the word *having*, used in this part of the section now under consideration, and particularly to inquire whether we are to explain it in a legal or an equitable point of view.—Where a man mortgages his estate, he loses all legal claim or title to it, from the moment that the provisoe contained in the mortgage for re-payment of the money borrowed, is broken or not performed ; but he still retains such an equitable interest; that he may, with the assistance of a court of equity, redeem it; and on the other hand, the mortgagee may, with the like assistance of a court of equity, and the subsequent defaults of the mortgager, obtain an equitable as well as legal title to the mortgaged premises.

The most palpable import of this word, “having,” is the *legal seisin* of the estate, from whence it will follow, that the mortgager, whole

whose proviso for redemption is broken, is no longer qualified, he having then no legal estate in him; but it may be necessary that the mortgagee should obtain the legal possession of the mortgaged premises before he is qualified.

A rent charge, or annual sum of money, payable out of an estate, although it reduces it to less than 100l. seems not to charge the estate, so as to affect the qualification, if the estate is of the clear yearly value of 100l.

There is a gross tautological inaccuracy in the penning of this part of the statute, which would lead one to think, that the person did not understand the language he made use of. I allude to the expressions, "*yearly value of 100l. per annum,*" which can be excused only in those who know not what the meaning of the Latin words *per annum* is.

The act goes on from estates of inheritance, to estates for life and years, "*or for term of life.*"—A doubt might be raised upon the wording of this statute, whether the preceeding sentence *in his wife's right*, can be extended to any other qualification than that by estates of inheritance; for the expression seems only to relate to those without any repetition, when the estates for life and years are mentioned. Though indeed from the apparent intent of the act, and reason of the thing, it should seem that the words, "*in his wife's right,*" should be again understood in the construction of the statute.—The fact

is, that the statute is a disgrace to the laws of this country, it is so inexplicit and equivocal.

Tenures for life are, where estates are held for the term of a man's own life, or for the life of another person, or for more lives than one:—and are of three sorts—1. Such as are expressly created by act of the parties by deed or grant; and these are termed conventional.—2. Tenures in tail after possibility of issue extinct: as where a man has an estate to him and his heirs on the body of his present wife to be begotten,—in this case, when the wife is dead without issue, or having left issue, such issue is extinct, the husband has an estate for life, as tenant in tail after her. 3. Tenant by the curtesy of ~~England~~ England; as where a man marries a woman seized of an estate of inheritance, and has by her issue born alive, capable of inheriting her estate. In this case, the husband on the death of the wife, shall hold the estate for his life, as tenant by the curtesy of England. And, 4. Tenure in dower, which is the 3d part of the husband's estate, while the wife holds for her life after her husband's death,—and these three last are created by the act and operation of the law. *Blackst.*

I have already mentioned the inaccuracies of this act; I hope the reader will excuse my troubling him with one more observation on this head. The section begins in the negative, and enacts, that every person *not* having estates of inheritance, &c. is thereby declared to be a person, not allowed to have or keep

keep dogs, guns, &c. which is very well; but when it speaks of leaseholds, the negative is left out, and enacts, that "every person having lease or leases for ninety-nine years, or for any longer term, of the clear yearly value of 150l. is thereby declared to be a person, by the laws of this realm, not allowed to have or keep any guns, dogs, &c. for the taking and killing of game."—Which does in the express words of it disqualify them; though no doubt the legislature meant the contrary, and so it has been always understood.

The act next speaks of persons whose situation shall qualify them without regard to estate, "*other than the son and heir apparent of an esquire.*" A son who is an heir must be an heir apparent, and no one in general can be an heir apparent but a son; and therefore the word *apparent*, is redundant. This will appear when it is observed wherein the difference between an heir apparent, and an heir presumptive, lies: an heir apparent is he whose right to inherit is indefeazible in case he survives his ancestor. An heir presumptive is he who if the ancestor should die immediately, would in the present circumstance of things be his heir; but whose right of inheritance may be defeated by the contingency of some nearer heir being born. 2 Black. Com. c. 14.—For instance, a nephew or brother may be in the present state of things, heir at law to A. B. if A. B. should die without a son,

B b 3

but

but then he is an heir presumptive: for the birth of a son would defeat his right of inheritance.

As to the word *esquire*, its meaning is at this day very vague and uncertain; for there are now no esquires in the original sense of the word. It comes down from the Latin, *escuyer*, *scutarius*, called by the Saxons *schilt knaben*, or knapen; from whence comes the word knave, which anciently signified a *servant*. It is a name of dignity, says Selden, next above the common title of gentleman, and below a knight. Heretofore he signified one that was attendant, and had his employment as a servant, waiting on such as had the order of knighthood, bearing their shields, and helping them to horse and such like. And this title is of that nature with us now, that to whomsoever, either by blood, or place in the state, or other eminency, we conceive some higher attribute should be given than the sole title of gentleman, knowing yet that he hath no other honorary title legally fixed to him, we usually stile him an *esquire*, in such passages as require legally that his degree or state be mentioned. Seld. Tit. Hon. 374, 462, 687.

Sir W. Blackstone in his Commentaries, b. i. c. 12. from Camden (who was himself an herald) furnishes us with a more accurate distinction of esquires; and he reckons up four sorts of them. 1. The eldest sons of knights, and their eldest sons, in perpetual suc-

succession. 2. The eldest sons of younger sons of peers, and their eldest sons in like perpetual succession: both which species of esquires Sir Henry Spelman entitles *armigeri natalitii*. 3. Esquires created by the king's letters patent, or other investiture, and their eldest sons. 4. Esquires by virtue of their offices, as justices of the peace, and others who bear any office of trust under the crown. To these may be added esquires of knights of the bath, each of whom constitutes three at his installation; and all foreign, nay, Irish peers; for not only these, but the eldest sons of peers of Great Britain, though frequently titular lords, are only esquires in law.

And from these descriptions it may be seen, that no estate or property, however great, can constitute any one an *esquire* in the legal and true sense of the word; and consequently the eldest sons of men of fortune, who are denominated esquires merely on account of their property, are not as such qualified by this act.

“—*Or other person of higher degree.*”—Mr. Burn observes upon these words from Blackstone, that “next above esquires, and below knights and their sons, the heralds rank, 1. colonels, 2. serjeants at law, and 3. doctors in the three learned professions.” The words “*or other person of higher degree,*” are construed to extend not merely to the sons of persons of higher degree than an esquire, but to persons themselves

selves who are of higher degree, who are declared by this act to be qualified in virtue of that degree.

“—And the owners and keepers of forests, parks, chases, or warrens, being stocked with deer or conies for their necessary use, in respect of the said forests, chases, parks, or warrens.”—This clause authorizes such

owners and keepers to have and keep dogs and engines for use within their forests, parks, chases, and warrens, but it might be contended that it gives them no authority to keep or use them elsewhere. It is, like the other parts of the act, equivocal; the words *in respect of*, mean either that they shall be absolutely qualified because they have such forests, &c. or, that having them, they may use dogs and instruments within them.

“—Not allowed to have or keep for himself, or any other person.”—So that the notion of a protection, on account of the dog being the dog of a qualified person, kept by one unqualified, seems to be totally void of foundation.

It has been doubted how far estates freehold and copyhold may be coupled together, in order to make a qualification: for instance, if a man has an estate of freehold of the value of 90l. per annum, and a copyhold estate of 10l. per annum, whether this is sufficient within the spirit and meaning of the statute. And it seems that it is, for the statute, as to this matter, is general, and speaks generally of “estates of inheritance.”

tance," which are words equally applicable to both freeholds and copyholds; and this leads me to another point, which has been doubted of, and that is, whether freehold and leasehold estates may be joined to make the requisite qualification; as, if a man has an estate of inheritance of 90l. a year, and a leasehold of the clear yearly value of 10l. amounting together to the sum of 100l. per annum; or, if he has a freehold of inheritance of the same yearly value, and a leasehold of 60l. per annum, amounting together to 150l. per annum, can he in either case be said to be qualified within the intent and meaning of the act?

To answer this, attention must be paid to the express distinction which the act makes, with respect to estates of inheritance and leaseholds; for there they are kept distinct and independent, and consequently as 90l. a year of freehold, and 10l. a year of leasehold, cannot make 100l. a year of estate of *inheritance*, and vice versa, as 90l. a year of freehold, and 60l. a year of leasehold, cannot make 150l. a year of *leasehold*, one of which is expressly required by the statute; so it seems clear they cannot be consolidated to make a legal qualification.

Of the punishment of unqualified persons.

This head has two branches. 1. The punishment of unqualified persons in general.
2. The

2: The punishment of higlers, alehouse-keepers, &c. in particular.

The act of 22 and 23 Car. 2. p. 68. of which we have treated in the last chapter merely points out what description of persons are not qualified by the laws of this realm to keep dogs and instruments for the taking and killing of game, without annexing any sufficient penalty to the offence, or imposing any sufficient punishment upon those who kill and destroy game; for as to the keeping of them, they were only liable to be seized for the use of the lord, or destroyed, as things prohibited, which part is pretty comprehensive:—and as to the killing of game, the penalties in that act were very confined, for it merely recites, that several disorderly persons had taken up a practice to kill hares and conies with snares, harepipes, and other engines, in or near warrens and other places, and then enacts a trifling pecuniary penalty.

Then comes the stat. 4 and 5 W. and M. c. 80. which requires constables, headboroughs, and tithing-men, being thereunto authorized, by warrant from a justice, to enter into the houses and other places of suspected persons unqualified. And in case any hare, partridge, pheasant, pidgeon, fish, fowl, or other game, be found, the offender shall be carried before a justice of the peace; and if such person do not give a satisfactory account how he came by such game, or shall not, in a convenient time, to be set by the justice, pro-

produce the person of whom he bought the same, or some other credible person, to depose the sale thereof, he shall forfeit, for every hare, partridge, pheasant, fish, fowl, or other game, not less than 5s. or more than 20s. and in default of payment to be committed for any time not exceeding one month, nor less than 10 days. And that if any person not qualified shall keep or use any bows, greyhounds, setting-dogs, ferrets, coney-dogs, hayes, lurchers, nets, tunnels, lowbels, hare-pipes, snares, or any other instruments for destruction of fish, fowl, or other game, he shall be liable to the same penalties as are above mentioned. And impowers lords of manors and gamekeepers to oppose and resist offenders in the night time. And *finally* gives full costs in actions of trespass, against inferior tradesmen, apprentices, and other dissolute persons, who shall hunt, hawk, fish, or fowl.

It has been determined that rabbits in a *private* warren are not game within the act 4 and 5 W. c. 23. s. 3. p. 80. Lord Raym. 151. Digest of Adjudged Cases in K. B. 499.

Few acts that have been made on this subject are made in a more universal stile than this, and particularly the words where the penalty is distinctly imposed, "For every hare, partridge, pheasant, fish, fowl, or other game," are very general and penal.

Next comes the stat. of 5 Ann, c. 14, which after enacting certain penalties on
hig-

biglers, chapmen, carriers, innkeepers, victuallers, and alehouse-keepers, and giving certain encouragement to discoverers, proceeds in the 4th sect. to more general penalties against persons who shall keep or use dogs or instruments for destroying game; which section of the stat. as it is the standing rule of punishment at this day, we shall consider more particularly and minutely. The language of this section is: "that if any person or persons not qualified by the laws of this realm so to do, shall keep or use any greyhound, setting dogs, hays, lurchers, tunnels, or any other engine to kill and destroy the game, and shall be thereof convicted upon the oath of one or two credible witnesses, the person or persons so convicted, shall forfeit 5l. one half to be paid to the informer, and the other to the poor of the parish where the same was committed."

This clause by annexing a pecuniary penalty of 5l. to the keeping of dogs and engines by persons unqualified, struck the most severe blow of any that had been given to this offence; and the disjunctive "keep or use," has given a latitude to it beyond that of any other act: for by this act the bare *keeping* of a greyhound, setting dog, or lurcher, or any engine, which is peculiarly adapted and contrived for the killing and destroying of game, is an offence. Str. 494.

And so far has the spirit of the statute been attended to in judicial determinations, that the

the walking about with intent to kill game, is evidence of *using* the instrument for that purpose. 1 Sess. c. 88. And the general words, *or any other engines*, has led some persons to suppose that it was penal by this statute to keep a GUN : but in the case of the King and Gardiner, T. 11. G. 2. it was determined that a gun is not an instrument so far appropriated to killing game, as that it is criminal for a person to have one in his custody only, any more than for having a cane in his possession, which may possibly be used for that purpose. The only offences intended to be prevented by the act are, the keeping of engines appropriated to, and which can only be used in the destruction of game. A gun is an engine, not for killing game, but for the defence of a man's house or person : and the whole court were in this case of opinion, that if the statute is to be construed so largely, as to extend to the bare having of any instrument, that may possibly be used in destroying game, it will be attended with very great inconvenience ; there being scarce any, though ever so useful, but what may be applied to that purpose. And though a gun may be used in destroying game, and when it is so, doth then fall within the words of the act ; yet as it is an instrument proper, and frequently necessary to be kept and used for other purposes, as the killing of noxious vermin, and the like, it is not the having a gun, without applying it to the destruction of game, that

is prohibited by the act : but otherwise it is of lurchers, harepipes, and such like, which are peculiarly fitted or disposed for killing game. The bare *keeping* of these for the purpose of killing game, is sufficient to convict an offender, and it will be incumbent upon the defendant himself to prove, that he kept them for other purposes. And. 255; 2 Sess. c. 204. Str. 1098.

Again as no dogs but greyhounds, setting dogs, and lurchers, are expressly mentioned in this act; and consequently, as the act has not the word hound, pointer or spaniel, and the words, " or any other engine," come after " nets," and are indeed applicable to inanimate things only, so it appears, that by *this statute*, unqualified persons cannot be convicted for keeping any dogs which are not expressly mentioned; for this being a penal law, cannot be extended, Str. 1126. —The stat. of 22 and 23. Car. 2. c. 25. has indeed certain general words respecting dogs, as, " or other dogs to destroy hares or conies," but then there is by no act of parliament, a pecuniary penalty for keeping any dogs, but greyhounds, lurchers, and setting dogs; for the stat. of 22 and 23. Car. 2. does not impose a general penalty upon persons unqualified, who shall kill and destroy game; but only declares, who shall or shall not be deemed unqualified; and gives, power to lords of manors and gamekeepers to seize the dogs, nets, and other engines of such unqualified persons; but if a man had
killed

killed game and had the same in his custody, he might have been prosecuted for the penalty of 20s. for such offence, by the stat. 4 and 5. W. p. 80. But then the consequence of all this will be, that it is not penal barely to *keep a bound* (or other dog not specified in the act) on this statute of 5 Ann, but if any unqualified person shall so do, the gamekeepers (it is said) authorised by the justices warrant, may seize, keep, or destroy the same, by the aforesaid statute of the 22 and 23. Car. 2. Burn's Just. 268.

It has also been a subject of much doubt, whether persons who go out with a qualified person to beat the bushes, are not liable to the penalty, seeing they by this means might be said to *use* the dogs, &c. for the destruction of game. But this doctrine has long had a very respectable opinion against it.— In the case of the Queen and Green, East. 13 Ann, lord chief justice Parker made this observation. The defendant went a sporting with a gentleman of 300l. per ann. to take care of his dogs, that such persons ought to be taken (i. e. considered) as servants, and the justices should not commit [q. convict] in such cases, Gilb. cas. L. and Eq. 232.

And this point has been since clearly and emphatically decided in the case of K. against H. 13. G. 3. where it was determined that persons in company with a qualified man, may beat bushes in order to find hares without incurring any danger whatsoever, and by this case it seems that the Court of King's

Bench, will grant an information against justices wilfully convicting such persons.

A doubt has been often raised, whether a man who keeps or uses dogs or instruments prohibited, and they are seized, is liable to pay the pecuniary penalty for those very dogs or instruments which are so seized. And I conceive it will not admit of a doubt but that if a justice of the peace or lord of manor, or gamekeeper, shall upon search, find dogs or engines, which unqualified persons are prohibited to keep: such dogs or instruments are not only liable to be seized, but the penalty of five pounds, may be also recovered against the offender in respect of such dogs or instruments;—for the act of 5 Ann. not only charges a penalty of 5*l.* upon persons unqualified, who shall keep or use such and such dogs and instruments, but adds, that “any justice or lord within his manor, may take away *such* dogs, nets or engines, &c.”

And it may happen, that a man may be punished upon more than one statute for one act by him done. It is indeed said to be a rule, that no person can be punished upon more than one statute for one offence: and this is true, and a good rule it is:—But it does not follow from hence, that a person cannot be punished upon more than one statute for one act by him committed; for a single act, may in some instances involve in it several offences; thus, for instance, if an unqualified officer should trace a hare in the snow, he cannot be prosecuted upon the statute 14
and

and 15 H. 8. c. 10. which imposes a penalty of 6s. 8d. upon persons tracing and killing hares in the snow, and at the same time, upon the statute 1 Jac. c. 27. which imposes 20s. penalty for every hare which shall be traced in the snow; because these statutes provide against one and the same offence; but probably such officer might, for that one act be liable to two prosecutions, the one on the yearly mutiny act, which imposes 5l. upon such of them as destroy game without the consent of the lord of the manor, and the other upon the statutes imposing a penalty of 5l. generally upon persons unqualified; for though it is all one act or deed, yet by the laws in force, they are several offences, the one destroying game being unqualified, the others destroying game, being an officer, without consent of the lord of the manor. And if this were to be done on a Sunday, probably he would be liable to an additional penalty of 10l. this being another and distinct offence.

Upon the words of this statute which direct, that the conviction shall be upon "the oath of one or two credible witnesses," it has been objected, that a conviction could not be upon the offenders own confession, because the statute hath only given the justices jurisdiction to convict upon the oath of witnesses: but it hath been determined by the court in the case of King and Gage in H. 9. G. 1. that such a conviction is good.—The intent of mentioning the oath of one witness, was on-

ly to direct the justices, that they should not convict upon less evidence, Str. 546.

And as the conviction is directed to be before one justice in a summary way, the party cannot be indicted upon this statute; for when a particular remedy is pointed out by the act, it cannot be departed from, and this was determined by the court of king's bench, in the case of the King and Buck. Hil. the G. Str. 679.

It seems that if a man be prosecuted upon the statute 5 Ann. c. 14. he cannot be charged with more than 5l. penalty, though he kills several hares, or other game, *in one day*; for the killing several hares in one day is but one offence. This act does not make a penalty of 5l. for every hare that is killed, although they be killed in several places; but imposes a penalty of 5l. for keeping or using such and such dogs and engines for their destruction.—But if a man keeps dogs or instruments, and kills several hares, or other game, in several days, they are several offences, and he shall forfeit 5l. for each offence. 10 Mod. 26. Comyns, 274.—And if the prosecution be on the 9th of Ann, c. 25. s. 1. and 2. and 28 G. 2. c. 12. five pounds may (according to the circumstances of the case) be recovered for every hare which shall be exposed to sale, for this statute of the 9 Ann, is explanatory of the stat. 5 Ann. The fifth of Ann imposes a penalty on persons exposing hares, &c. to sale, of 5l. for every hare; and by way of extending the provisions

provisions of the former act, and in order to make this an universal law, which was before partial and confined to certain descriptions of unqualified men, as higlers, &c. the stat. 9 Ann and 28 G. 2. enact, that if any hare, &c. be found in the possession of *any person* not qualified, it shall be deemed an exposing to sale, and the offender shall incur the penalties prescribed by the 5 Ann.

It has been questioned, whether offenders are not liable to pay 5l. for *every* individual prohibited dog, instrument, and engine, that shall be found in the possession of unqualified persons; and it seems that they are not, for the act is general and says, if any person, not qualified, shall keep or use any greyhounds, setting dogs, lurchers, tunnels, or any other engine, to kill and destroy the game, he shall forfeit 5l. simply; whereas if the legislature had intended to establish the doctrine under consideration, the act would have imposed 5l. for *every* such dog or engine. And the consequence seems to be, that unqualified persons may keep as many dogs and instruments as they please, and be liable to one penalty of 5l. only. And on the other hand, upon the disjunctive "*or*"—"keep *or* use" it may be argued, that if a man keeps two prohibited dogs, one of which, on a certain day, he keeps at home, and uses the other, that he is liable to two penalties, whereas if he were to have used both he would have been liable to one penalty only. But probably this doctrine is
not

not within the meaning of the act; for the act, by using these two words *keep* or *use*, seems to have intended that unqualified persons should not keep these prohibited dogs themselves, and lest this should be evaded by their borrowing the dogs of other persons, it is added, that they shall not only not keep dogs, but if they are found barely *using* the dogs of other persons, they shall be liable to the penalty. And this seems in some degree to be the real import of the words, for the act of 22 and 23 Car. 2. where it points out the necessary qualifications, says, that persons not so qualified are thereby declared to be persons not allowed to have or *keep for themselves, or any other person*, any guns, &c. without a word about *using*; but with a precaution of a similar nature with that in this statute, prohibits their keeping them for any other person.

And it follows, from these observations, that a man is amenable to the statute 5 Ann. if he keeps a prohibited dog for a qualified person, as much as if it was his own: and that the using of a pointer or other dog not specifically prohibited, which belongs to a qualified person, makes the party using him subject to the penalties of the statute.

The penalty is directed to go half to the informer, and half to the poor of the parish where the offence was committed.

In Michaelmas Term, 2 G. 2. in the case of the King and Stone, a conviction was quashed, because the informer was the witness;

ness; and the very great inconveniencies which arose from frequent cases of this and similar kinds, where witnesses were interested (L. Raym. 1545. Andr. 240.) occasioned the making the act, 2 G. 3. c. 19. p. 199, which recites, that in prosecutions on the act of 8 G. c. 19. in the courts at Westminster, where a part of the penalty is given to the poor of the parish, the *inhabitants* of such parish had been disallowed to give evidence; and therefore, in that case, to remedy the same, directs that no part of the penalty recovered shall be paid or applied to or for the use of the poor, and gives the whole penalty to the informer, in order to enable the inhabitants and parishioners to give evidence.

So that if the prosecution be in a summary way before a justice, the penalty shall go according to the statute 5 Ann. half to the informer, and half to the poor; but if the prosecution be in a court of record as the court of King's Bench, Common Pleas, or the like, the penalty goes to the informer. Stat. 2 G. 3. p. 199.

And as, in some instances, a man may stand in one parish, and shoot in two or three, it has been determined, that in such case, the place where the offence was committed is, where the party stood when he shot, and not where the object was which he shot at. Show. 339. M. 3. W. K. and Alfop.

The

The act of 5 Ann now under consideration, directs the penalty to be levied "by distress;" and it should be observed, that goods distrained for the penalty are not replevable. Str. 567. and it seems not unlikely that an attachment would be granted against the sheriff for granting a replevy in this case: for, although, in Trin. 9 G. 1. in the case of *King and Burchet*, an attachment was denied, because as Eyre J. said it was only a contempt to the inferior jurisdiction of justices, and in that case the King's Bench never interposes; yet, in the case of the *King and Monkhouse*, East. 16 G. 2. the court granted an attachment against an under sheriff, for granting a replevyn of goods distrained on a conviction for deer stealing. Str. 1184.

And perhaps wilful acts of this kind may subject both the sheriff and the party, whose goods are seized, to an information in the Crown Office. M. 2. G. 2. 1 Banard. 110.

And where the penalty is levied by sale of the offenders goods, and the conviction is afterwards quashed, an action for money had and received will lay for the clear money produced by the sale. E. 13. G. 3. Buller's L. N. Prius, 131.

And if a justice commits the offender, without endeavouring to levy the penalty by distress, where he has effects sufficient to answer the penalty by distress, an action of false imprisonment lies against the justice. T. 12. G. Str. 710.

Thus

Thus far of the pecuniary penalty of 5*l.* imposed on unqualified persons, who shall keep or use dogs for the destruction of game. As to that part of their punishment, which subjects their dogs, guns, and other engines, to be seized upon the statutes of 22 and 23 Car. 2. c. 25. s. 2. and 5 A. c. 14. s. 4. it is done somewhat amply before in p. 262, where certain observations are made upon the powers with which gamekeepers are invested.

It may be indeed necessary to observe, that by the yearly mutiny acts, p. 162. if any officer or soldier shall, without leave of the lord of the manor under his hand and seal, destroy any hare, coney, pheasant, partridge, pigeon, or other fowl, poultry, or fish, or his majesty's game, and be convicted thereof, on oath of one witness before one justice, every officer so offending shall forfeit 5*l.* to the poor, and the commanding officer upon the place, for every offence committed by any soldier under his command, shall forfeit 20*s.* in like manner; and if, upon conviction by the justices, and demand thereof made by the constable or overseers of the poor, he shall not in two days pay the said penalties, he shall forfeit his commission.

By the stat. 1 Jac. c. 27. p. 49. it is enacted that every person, [i. e. whether qualified or not] which shall sell or buy to sell again, any deer, hare, partridge, or pheasant (except partridges and pheasants, reared and brought up in house or houses, or brought

brought from beyond the seas) shall forfeit for every deer, 40s. for every hare and partridge, 10s. and for every pheasant, 20s.

It does not seem by this act to be penal to buy a hare or other game, unless it be bought to sell again: nor does there indeed seem to be any law in force, imposing a penalty for the merely buying game for one's own private use (unless it be done by any higler, chapman, carrier, innkeeper, victualer, or alehouse-keeper. Stat. 5 Ann. c. 14. s. 2. p. 102.) for the stat. 28. G. 2. c. 12. imposes a penalty upon persons, whether qualified or not, who shall *sell*, *expose*, or *offer* game to *sale*, without a word upon buying; and if the matter ended here, it might be very well, and would be something in favour of unqualified persons, who might buy game, and by that means would not be entirely deprived of the use of it. But it is so contrived, that this operates but little in their favour, but wholly in favour of those who are qualified: for although the statutes do not make it penal for an unqualified person to buy game for his own use, or to give away; yet, let it be remembered, that there is a law existing (9 Ann. c. 25. s. 2. p. iii.) which enacts, that if any game shall be found in the possession of any person not qualified in his own right to kill game, or intitled thereto under some person so qualified, it shall be deemed an exposing thereof to sale; and this effectually cuts off the unqualified man from the opportunity of even buying

buying game, while the qualified man may not only destroy it, but may buy it with impunity.

It is a received opinion, that if an unqualified person is hunting or courting in company with one qualified, and a hare is killed, that the unqualified person is liable to a penalty of 5*l.* if he takes the hare from the dogs.

This opinion, if well founded, must be upon the statutes of 5 Ann. c. 14. s. 2. and the 9 Ann. c. 25. s. 2.; and in order to bring this matter into as clear a light as possible, it will be proper to recite so much of each of them as relates to the point in question. The stat. 5 Ann. c. 14. p. 102. says, that, "If any higler, chapman, carrier, innkeeper, victualler, or alehousekeeper, shall have in his custody or possession, or shall buy, sell, or offer to sell any hare, partridge, &c. every such higler, &c. (unless such game, in the hands of such carrier, be sent up by a person qualified) shall forfeit for every hare, &c. 5*l.*"

Then comes the stat. 9 Ann. c. 25. p. 109. which perpetuates the stat. 5 Ann. subject to the additions and alterations in this act, and (*inter alia*) enacts; "That if gamekeepers, not qualified as therein is mentioned, or if any other person or persons whatsoever, not being qualified in his own right to kill game, shall sell or expose to sale any hare, pheasant, partridge, moor, heath game, or grouse, the respective offender or offenders herein, shall, for every offence, incur such forfei-

tures, pains, and penalties, as are inflicted by the recited act (5 Ann.) upon higglers, carriers, innkeepers, or victuallers, for buying or selling of game." And then goes on, s. 2. That, "if any hare, partridge, moor, heath game, or grouse, shall be found in the shop, house, or possession of any person or persons whatsoever, not qualified in his own right to kill game, or being intitled thereto under some person so qualified, the same shall be adjudged, deemed, and taken to be an exposing thereof to sale; within the true intent and meaning of this and the recited act." (5 Ann.)

We see then that a penalty of 5*l.* is imposed upon every person who shall have in his possession a hare, or such other game as is mentioned in the act; except he is qualified in his own right to kill game, or is intitled thereto, under some person so qualified. And it is certain, that according to the letter of this law, it is penal for an unqualified person to take up a hare, even in company of one qualified. But then this cannot be within the spirit and meaning of the act: and the rule of law is, that though a penal statute ought to be construed strictly, yet it may be construed beneficially; for what is out of the mischief, is out of the meaning of the law, though it be within the letter. And on the contrary, what is within the same mischief, shall be within the same remedy, though it be out of the letter of the law. Now it is certain
that

that this law was made to prevent the destruction of game, by preventing unqualified persons selling it: which, if it could have been done, would have operated in the most effectual manner against poachers; for it would not answer their purpose to destroy, where they could not sell game. At the time the stat. 9 Ann was made, it was discovered that a very great difficulty attended the detection of poachers in the actual *selling* of game, and therefore more effectually to check them, further provisions were enacted by this stat. 9 Ann, which makes proof of the actual selling, or exposing to sale not requisite, and enacts that the having such game in possession only, shall be deemed an exposing to sale. Now the case before us is in no wise similar to this—where a person is in company with one qualified, and he takes up the game, which is killed by the person qualified, or his dogs, he does it merely to assist him: and as he either then keeps such game a while for him, or immediately delivers it to him, there is but little reason to conclude, that he is within the meaning of the act. Nay this supposed offender would probably, upon solemn argument, be considered as one of those who are expressly excepted in the very words of the act, i. e. as one “who is intitled to the hare [for the time being] under a person qualified in his own right to kill game.”

*Form of Convictions and Commitments upon
the Stat. 5 Ann. c. 14.*

It is in general agreed that in summary convictions by justices of the peace, where the ancient course of proceeding by indictment and trial by jury is dispensed with, the court may more easily dispense with forms; and that it is sufficient for the justices, in the description of the offence, to pursue the words of the statute, and they are not confined to the legal forms requisite in indictments for offences by the common law. Lord Raym. 581.

And it is settled by the uniform course of authorities, that the qualifications must be all *negatively* set out in the conviction; a general averment is not sufficient, it must be averred that the defendant *had not* the particular qualifications mentioned in the statute, otherwise the justices have no jurisdiction over the persons killing game, or keeping dogs or engines for the destruction of it. Burr. Mansf. 148.

And it is not sufficient in the conviction to say, that the witness, being sworn, saith that the defendant being a person not qualified, &c. did keep, &c. for the *being not qualified* should not be the conclusion of the witness but the judgment of the justice. Str. 66.

But a distinction is to be made between an action and a conviction, a general averment of the defendants not being qualified, has

and other game, to the ruin of themselves and damage of their neighbours; therefore if any person shall presume to hunt, hawk, fish, or fowl, (unless in company with the master of such apprentice duly qualified), he shall not only be subject to the other penalties, but if he be prosecuted for trespass, in coming upon any person's land, and be found guilty, the plaintiff shall not only recover damages against him but full costs,—so that apprentices (being themselves unqualified) seem to be allowed “to hunt, hawk, fish, or fowl,” in company with their masters who are qualified. And the learned Sir William Blackstone has observed, that upon this statute it has been adjudged, “that if a person “be an *inferior* tradesmen, as a clothier, for “instance, it matters not what qualification “he may have in point of estate; but, if he “be guilty of a trespass in sporting, he shall “be liable to pay full costs.” 3 Bl. Com. “c. 12. and Raym. 149.

Remark upon the Statute 1 Jac. c. 27. concerning Shooting Hares.

It is observable, that by the before mentioned act, 1 Jac. c. 27. s. 2. p. 49. it is made penal for any person whatsoever to shoot at, kill, or destroy, any hare with any gun or bow. And this is by Mr. Burn introduced as a law that is now in its full force and effect. But this is doubtful.—This act, by the general tenor of it appears plainly to have been made in favour of the then prevailing sport of hawking, for at the same time

time that it is made penal for any person to shoot at hares, every person indiscriminately is prohibited from destroying pheasants, partridges, &c. not only by shooting, but by any engines or instruments whatsoever; which excluded every other means except hawking and hunting.—I argue from these premises, that if by this act qualified men are now prohibited from shooting hares, they are, by the very same law, now prohibited from shooting any other game; and if it is penal to shoot at a hare, it is penal to shoot at a pheasant, a partridge, or the like. The question then occurs, How do you prove that this law against shooting hares is not in force? I answer, by the very same means that I prove that this law against shooting partridges and pheasants is not in force; and that is, by appealing to the statutes 22 and 23 Car. 2. p. 68. 4 and 5 W. c. 23. p. 80. the stat. 5 Ann, c. 14. and other subsequent statutes; all of which contain certain prohibitions, but those prohibitions are of such a nature, as do virtually repeal the former law as to qualified persons. Thus, for instance, the stat. 5 Ann, c. 14. enacts, that if any person unqualified shall keep or use *any engine*, he shall be liable to the penalties there imposed. And this prohibition of unqualified persons only, does most clearly give authority to qualified persons, as much as if that authority had been given them in the express words of the statute.

T H E E N D.

BOOKS printed for J. FIELDING,
in PATERNOSTER ROW, LONDON.

OFFICE OF CONSTABLE.

This day was published, in one neat pocket volume, price 1s. 6d. sewed, absolutely necessary for every housekeeper, and others who are anyways connected with, or liable to serve parish offices,

THE COMPLETE CONSTABLE;

Being a digest of the statute and common law; divested of the technical law terms. To which are now added, Practical Strictures on the several duties to be performed in the due execution of the office of Constable, viz. when acting with or without a Warrant of the Justice of the Peace at the General Quarter Sessions—when in conjunction with the Sheriff or Coroner—when before a Justice of the Peace—and also when to or with the High Constable of the division;—calculated for the Use and Guide of all such as are young in Office, or who wish for a proper knowledge of the importance of the Office of Constable.

By JOHN PAUL, Esq. Barrister at Law.

* * * For an account of this very useful Book see the Critical Review for April last.

ACTS OF PARLIAMENT.

This day was published, in one neat pocket volume, price 2s. 6d. sewed, or 3s. bound,

A Concise Abstract of all the Public Acts passed in the last Sessions of Parliament, from Jan. 26, to the 27th day of Oct. 1785, being the 25th year of the reign of King Geo. the Third.

By LEONARD MACNALLY, of the Inner Temple, Esq.

THE great reputation which Fielding's Annual Abridgement of the Statutes has acquired since the commencement of the undertaking, has induced several persons to impose upon the pub-

lic, by the sale of other abridgements; but it will appear upon comparison, that these wretched Epitomists of the Statutes are not only inaccurate, but inadequate to the purpose of information, and more likely to lead persons into litigation, than to protect them from it.

This Abridgment is a complete yet concise body of the Statute Law, enacted during the last sessions; and will be found of equal utility to the professional lawyer, the merchant, trader and gentleman.

History of the late War, with Portraits, Maps and Charts, beautifully coloured.

This day is published, price One Shilling, Embellished with the four following well-executed Copper-plates, viz. 1. A whole Length of George III.—2. A Likeness of Sir George Augustus Elliot, Governor of Gibraltar.—3. A chart of the British Channel, coloured 4. An emblematical Vignette and engraved Title,

NUMBER I. to be continued Weekly, of
AN HISTORY OF THE WAR
With AMERICA, FRANCE, SPAIN, and HOLLAND, commencing in 1775, and ending in 1783.

By JOHN ANDREWS, L. L. D.

This work will be completed in Twenty-eight Numbers, at 1s. each, making Four large Volumes in Octavo; sixteen of which are now published, and the whole will be finished on or about the first day of February 1786.

* * Two Volumes of this Spirited and Impartial History are already Translated into the French, German, and Dutch Languages on the continent, and an Italian Translation will soon be published in London.

ts; but
le wretch
only in
of infor
as into

it concil
uring the
al utility
it, trader,

s, Maps
d.
nilling,
well-ex
le Leng
ir Georg
braltar-
colours
engrav

ly, of
WAR
and How
ending in

.. D.
nty-eight
arge Vi
are no
d on

and Is
into th
s on th
will for
3

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

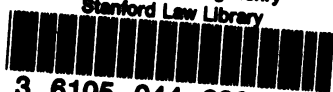
17

18

19

20

DJ ACM KGg
The game laws, from King Henry
Stanford Law Library



3 6105 044 233 703